

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Testamentary & Intestate Jurisdiction
ORIGINAL SIDE

PLA/319/2023

IN THE GOODS OF :
SRI MAHABIR PRASAD KHANDELIA, DECEASED

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : January 6, 2025.

Appearance:

Mr. Ranjit Kumar Basu, Adv.

... for the petitioner

The Court: Mr. Ranjit Kumar Basu, learned advocate, is appearing for the petitioner.

The petitioner has filed the present application for grant of probate of the last Will and Testament dated 26th August, 2014. The testator died on 22nd April, 2019 leaving behind four legal heirs i.e. wife, two daughters and one son.

Counsel for the petitioner submits that after the death of the testator and before filing of the present application, the wife of the testator died on 25th January, 2022. Counsel for the petitioner submits that all the legal heirs have filed affidavit of consent stating that they have no objection for grant of probate of the last Will and Testament executed by the testator.

Counsel for the petitioner submits that one of the attesting witnesses, namely, Ramesh Kumar Agarwal has also filed his affidavit stating that the testator had executed his last Will and Testament in his presence and in presence of another attesting witness while possessing

good health and fit state of mind by appointing the petitioner as the sole executor.

Heard learned counsel for the petitioner. Perused the original Will, death certificate of the testator, affidavit of consent of the two daughters and one son, affidavit of the attesting witness.

It is found that the wife of the testator died after the death of the testator but before the filing of the present application. The legal heirs in their affidavits of consent have categorically stated that they have no objection for grant of probate to the petitioner in terms of the last Will and Testament of the testator. The attesting witness has categorically stated that the testator had executed his last Will in his presence and in presence of another attesting witness while possession good health and fit state of mind by appointing the petitioner as the sole executor of the Will.

Considering the above, this Court finds that the petitioner has proved the Will and is entitled to get probate.

Accordingly, the department is directed to issue probate to the petitioner of the last Will and Testament dated 26th August, 2014 on compliance of all formalities.

At the time of grant of probate, the copy of the Will be made part of the probate.

PLA/319/2023 is disposed of.

(KRISHNA RAO, J.)