

ORDER SHEET

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

PLA/383/2023

IN THE GOODS OF :
SATYA PAL MALHOTRA ALIAS S. P. MALHOTRA, DECEASED

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : February 24, 2025.

Appearance:
Mr. D. Mitra, Adv.
... for the petitioner

The Court: Mr. D. Mitra, 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 24th May, 2001 which was registered on 12th June, 2001 of the testator Satya Pal Malhotra.

Counsel for the petitioner submits that the testator has appointed the petitioner as the executor of his last Will and Testament, failing which one Sri Arun Kumar Lakhotia. Counsel for the petitioner submits that the wife of the testator died on 23rd July, 2012 and the testator died on 4th July, 2019 leaving behind two legal heirs i.e. one son, namely, Ashwani Kumar Malhotra and one married daughter, namely, Sangeeta Chopra. The son of the testator has given his consent as he has no objection for grant of probate to the petitioner but the daughter has not come forward to give her consent or to file caveat or affidavit in support of caveat and accordingly, citation was issued but in spite of issuance of citation, the daughter has not come forward to raise any objection or to give consent.

Counsel for the petitioner further submits that the department has issued no caveat certificate dated 24th November, 2024 stating that no caveat is entered against the grant of probate of the last Will and Testament of the testator. One of the attesting witnesses, namely, Satya Narain Soni has filed his affidavit stating that the testator has executed his last Will and Testament in his presence and in presence of another witness by appointing the petitioner as the executor of his last Will and Testament while possessing good health and fit state of mind.

Considered the submission made by the counsel for the petitioner. Perused the original Will, death certificate of the testator, the averments made in the application that the wife of the testator was predeceased to the testator who died on 23rd July, 2012, affidavit of consent of the son of the testator, affidavit of attesting witness and the no caveat certificate submitted by the department.

This Court finds that out of the two legal heirs, one legal heir i.e. the son of the testator has given no objection for grant of probate and the other legal heir has neither come forward to give consent or to file caveat. The attesting witness in his affidavit has categorically stated that the testator has executed his last Will and Testament in his presence and in presence of another witness by appointing the petitioner as the executor of his last Will and Testament while possessing good health and fit state of mind.

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

The department is directed to issue probate of the last Will and Testament dated 24th May, 2001 of the testator Satya Pal Malhotra in favour of the petitioner on compliance of all formalities.

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

PLA/383/2023 is disposed of.

The department is directed not to draw up and complete the order.

(KRISHNA RAO, J.)

RS