

OD-54

ORDER SHEET

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

PLA/404/2023

IN THE GOODS OF:
DURGA PROSAD AGARWALLA (DEC.)

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : 14th January, 2025.

Appearance:

Mr. K. N. Jana, Adv.
...for the petitioner

The Court: Mr. K.N. Jana, learned counsel, is appearing for the petitioner.

The petitioner has filed the present application for grant of probate of the last Will and Testament dated 12th June, 1988 of the testator, namely, Durga Prosad Agarwalla.

Counsel for the petitioner submits that the testator died on 14th August, 1989 leaving behind altogether six legal heirs including the petitioner herein. Counsel for the petitioner submits that the wife of the testator has also died after the death of the testator. Counsel for the petitioner submits that all the legal heirs have submitted their affidavit of consent and one of the attesting witnesses, namely, Sudha Agarwal, has also filed affidavit stating that the testator had executed his last Will and Testament in her presence and in

presence of other attesting witnesses while possessing good health and fit state of mind by appointing the petitioner as executor of his last Will and Testament.

Heard the counsel for the petitioner. Perused the original Will, death certificate of the testator, affidavit of consent of all the legal heirs and affidavit of the attesting witness.

The petitioner has categorically made an averment that the wife of the testator died after the death of the testator. The attesting witness in her affidavit categorically stated that the testator had executed his last Will and Testament while possessing good health and fit state of mind by appointing the petitioner as executor of his last Will and Testament.

This Court also finds that all the legal heirs have filed their affidavit of consent stating that they have no objection for grant of probate of the Will dated 12th June, 1988 to the petitioner.

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 to 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/404/2023 is disposed of.

(KRISHNA RAO, J.)