

ORDER SHEET

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

PLA/414/2023

IN THR GOODS OF :
MALINA CHOUDHURY ALIAS MALINA CHOWDHURY DE, DECEASED

BEFORE:
The Hon'ble JUSTICE KRISHNA RAO
Date: February 5, 2025.

Appearance:
Ms. Dipika Banu, Adv.
Mr. S. Chakraborty, Adv.
Ms. Bolivia Roy, Adv.
Mr. Souvik Dian, Adv.
...for the petitioner

The Court: Ms. Dipika Banu, 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 16th January, 2011 executed by the testatrix, namely, Malina Choudhury alias Malina Chowdhury De.

Counsel for the petitioner submits that testatrix has executed her last Will and Testament while possessing good health and fit state of mind by appointing the petitioner as sole executor of her last Will in presence of two attesting witnesses.

Counsel for the petitioner submits that the testatrix has died on 8th December, 2017 and the husband of the testatrix died on 26th September, 2020. The testatrix died leaving behind two legal heirs and both are the nephews of the testatrix, out of which one nephew is the petitioner before this Court and another nephew, namely, Mr. Dipankar Dey, has neither filed

affidavit of consent nor has filed the caveat or affidavit in support of caveat. Accordingly, citations were issued. In spite of issuance of citations, the other nephew has not come forward for raising any objection.

The Department has submitted No Caveat Certificate dated 16th January, 2025 stating that no caveat has been entered against for grant of probate.

The petitioner has filed affidavit of one of the attesting witnesses, wherein the attesting witness, namely, Jyotirmoy Das, wherein the attesting witness in his affidavit has stated that the testatrix has executed her 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 sole executor of her last Will and Testament.

Considered the submission made by the Counsel for the petitioner.

Perused the original Will, death certificate of the testatrix, death certificate of the husband of the testatrix, affidavit of attesting witness and No Caveat Certificate.

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

The department is directed to issue probate of the last Will and Testament dated 16th January, 2011 upon completion of all formalities.

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

PLA/414/2023 is disposed of.

(KRISHNA RAO, J.)