

IN THE HIGH COURT AT CALCUTTA
TESTAMENTARY & INTESTATE JURISDICTION

PLA/431/2023

IN THE GOODS OF :
RADHARANI DAS, DECEASED

BEFORE:

The Hon'ble JUSTICE ARINDAM MUKHERJEE

Date: 7th November, 2025.

Mr. Debmalya Ghoshal, Mr. Ovik Sengupta, Mr. Arindam
Paul, Ms. Parna Mukherjee, Advocates for the petitioner.

The Court : The Will was directed to be proved in solemn form as neither of the attesting witnesses were available due to death. The attending witness is a family member of the deceased being her granddaughter. It is evident from the deposition of the attending witness that she was residing at the same house of that of the testatrix. There is no evidence to show that the attending witness did not have a cordial relationship with her grandmother. It is also very likely that in a situation where the grandmother is executing the Will she may need the assistance of her granddaughter being the attending witness. There is as such a strong possibility of the granddaughter being present in the room or at the place where the Will is executed. The presence of the granddaughter also remains uncontroverted. The Will was executed as per the evidence of the granddaughter (attending witness) at the residence of the testatrix. So in

absence of any material contrary thereto the evidence of the attending witness is found to be reliable. The attending witness has not only deposed that she was present but she had seen the testatrix sign the Will in the presence of the attesting witnesses and each of the attesting witnesses signed after the testatrix had appended her signature in the presence of each other and in the presence of the testatrix. The Will is a registered one. The attending witness has fairly deposed that on the date of registration she did not accompany her grandmother to the registration office. Since the evidence and the materials on record reveal that the Will was drafted by an Advocate who was also an attesting witness, the necessity of the attending witness to be present in the registration office is also not mandatory. That apart and in any event, the attending witness at the relevant point of time was a working lady and it may not have been possible for her to arrange her affairs to attend the registration process. Although, the attending witness could not say as to whether the date of execution of the Will was on a holiday or on a working day and whether she had taken leave from her office, in the event it was a working day, the same is not fatal as no one has come forward to oppose the grant.

In the aforesaid facts and circumstances, taking the evidence of the attending witness as a whole along with the documents, I find that the Will was duly executed by the testatrix. The fact that the testatrix had after executing the Will got the same registered also indicates that the testatrix was of sound mental condition and had the testamentary capacity to execute the Will. Furthermore, the Will in absence of any challenge and more particularly being

a registered one does not give rise to a suspicious condition for which the grant is required to be refused. The probate of the Will dated 10th June, 1998 is granted in terms of prayer (c) of the application for grant of probate being PLA 431 of 2023. The department is directed to take necessary steps.

The probate application is accordingly disposed of.

(ARINDAM MUKHERJEE, J.)

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