

ORDER SHEET

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

PLA/462/2023

IN THE GOODS OF :
PRATIMA @ PROTIMA GUHA, DECEASED

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : February 24, 2025.

Appearance:

Mr. P. S. Mullick, Adv.

Mr. Ratan Pal, Adv.

... for the petitioner

The Court: Mr. P.S. Mullick, 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 2nd December, 2010 of the testatrix Pratima Guha.

Counsel for the petitioner submits that the testatrix died on 17th January, 2012. During her lifetime, she has executed her last Will and Testament by appointing the petitioner as the sole executor of her last Will and Testament in presence of two attesting witnesses. The husband of the testatrix was predeceased to the testatrix. The testatrix died leaving behind three married daughters but none of the daughters has come forward to give consent or to file caveat or affidavit in support of caveat and accordingly, citation was issued. Even after issuance of citation, none has come forward to give consent or to raise objection for grant of probate. One of the attesting witnesses, namely, Yashovardhan Khemka has filed her affidavit stating that the testatrix has executed her last Will and Testament on 2nd December, 2010 by appointing the petitioner as the sole executor of

her last Will and Testament in presence of another attesting witness 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 testatrix, no caveat certificate issued by the department stating that no caveat has been filed even after issuance of citation and the affidavit of the attesting witness.

This Court finds that the attesting witness in her affidavit has categorically stated that the testatrix has executed her last Will and Testament in her presence and in presence of another witness by appointing the petitioner as the sole executor of her last Will and Testament while possessing good health and fit state of mind. None of the legal heirs has come forward to give consent or to file caveat or affidavit in support of caveat even after issuance of citation, the department has submitted no caveat certificate.

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 2nd December, 2010 of the testatrix Pratima Guha 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/462/2023 is disposed of.

(KRISHNA RAO, J.)