

OD-50

ORDER SHEET

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

PLA/544/2022

IN THE GOODS OF:  
KANYALAL DAYANI, DECEASED

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : 14<sup>th</sup> January, 2025.

Appearance:

Mr. Dinabandhu Chowdhury, Adv.

Mr. Amal Kumar Saha, Adv.

Ms. Iresh Paul, Adv.

...for the petitioner

The Court: Mr. Dinabandhu Chowdhury, 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 29<sup>th</sup> November, 1996 executed by the testator, Kanyalal Dayani wherein the testator had appointed the petitioner as executor of his last Will and Testament and failing him, Sri Satya Narayan Sahu shall be the executor of the Will. Counsel for the petitioner submits that the testator died on 23<sup>rd</sup> November, 2020 leaving behind his wife, two sons and one daughter. Though citations were issued but none has come forward either giving affidavit of consent or filing caveat or affidavit in support of caveat. He submits that the department has provided no caveat certificate wherein it is stated that no caveat has been entered against the grant of probate. Counsel

for the petitioner submits that the testator had executed his last Will and Testament in presence of two attesting witnesses out of which one attesting witness filed affidavit stating that the testator had executed his 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 executor as his last Will.

Considered the submission made by the counsel for the petitioner. Perused the original Will, death certificate of the testator, affidavit of the attesting witness and no caveat certificate issued by the department dated 13<sup>th</sup> December, 2024.

The petitioner has mentioned about the legal heirs of the testator in paragraph 7 of the application but none of the legal heirs have come forward either to give consent or to file caveat or affidavit in support of caveat. Citations were issued but none has come forward to raise any objection for grant of probate. The department has submitted no caveat certificate certifying that no caveat has been lodged. The attesting witness in his affidavit categorically stated that the testator had executed his 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 executor of his last Will and Testament.

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/544/2022 is disposed of.

(KRISHNA RAO, J.)