

ORDER SHEET

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

PLA/492/2023

IN THE GOODS OF :
SRI NAKUL CHANDRA MALO, DECEASED

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : February 24, 2025.

Appearance:

Mr. Awadhesh Kumar Rai, Adv.

Mr. Shivam Mishra, Adv.

... for the petitioners

The Court: Mr. Awadhesh Kumar Rai, learned Advocate, is appearing for the petitioner.

The petitioners have filed the present application for grant of probate of the last Will and Testament dated 4th May, 2021 of the testator, Nakul Chandra Malo.

Counsel for the petitioners submits that the testator died on 11th May, 2022. He further submits that testator was unmarried and he died leaving behind no legal heirs. Counsel for the petitioners submits that the testator has executed his last Will and Testament in presence of two attesting witnesses and out two witnesses, one witness, namely, Manoj Kumar Pandey has filed affidavit stating that the testator has executed his last Will and Testament by appointing the petitioners as Joint Executors of his last Will and Testament. Counsel for the petitioners submits that citations were issued but none has come forward either to raise objection for grant of probate or to give consent and accordingly, the department has

submitted No Objection Certificate dated 25th November, 2024 wherein it is categorically stated that no caveat has been lodged for grant of probate of the last Will and Testament of the testator.

Considered the submission made by the Counsel for the petitioners. Perused the original Will, death certificate of the testator, affidavit of consent, affidavit of the attesting witness and no caveat certificate.

This Court finds that in the application, the petitioners have stated that the testator has died bachelor and accordingly, citations were issued and the department has filed no caveat certificate. The attesting witness in his affidavit has categorically stated that the testator has executed his last Will and Testament in his presence and in presence of another witness by appointing the petitioners as Joint Executors of his last Will and Testament while possessing good health and fit state of mind.

Considering the above, this Court finds that the petitioners have proved the Will and are entitled to get probate.

The department is directed to issue probate of the last Will and Testament dated 4th May, 2021 of the testator, Nakul Chandra Malo to the petitioners on compliance of all formalities.

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

PLA/492/2023 is disposed of.

The department is directed not to draw up and complete the order.

(KRISHNA RAO, J.)