IN THE HIGH COURT AT CALCUTTA
TESTAMENTARY & INTESTATE JURISDICTION
ORIGINAL SIDE

Present:
The Hon'ble Justice Sugato Majumdar

TS/2/2022

IN THE GOODS OF:
SMT SADHANA GHOSH DECED
-ANDRINA GHOSH
VS
RITA GHOSH AND SMRITI DATTA

For the Plaintiff	:	Mr. Varun Kothari, Adv. Mr. Asok Kumar Ghosh, Adv.
Hearing concluded on	:	06.10.2026
Judgment on	**:**	**08.10.2026**

Sugato Majumdar, J.:

This is an application for the grant of Probate of the last Will and Testament of the deceased, namely, Sadhana Ghosh.

The deceased Sadhana Ghosh was governed by Dayabhaga School of Hindu Law. She breathed her last on 5th January, 2019. She last resided at Premises No. FA-57/5, Narayantala (West), P.O.–Deshbandhu Nagar, P.S.–Baguiati, Kolkata–700 059, which situates outside the Ordinary Original Civil Jurisdiction of this Court, but comes within its Testamentary and Intestate Jurisdiction. Prior to her death, the deceased executed her last Will and Testament on 6th October, 2018 wherein she appointed Smt. Rina Ghosh as the Executrix of the Will. After the demise of the said Sadhana Ghgosh, the Testatrix herein, the Executrix filed this petition for the grant of Probate of the Will.

Both General and Special Citations were issued.

A caveat was filed by one maternal granddaughter of the Testatrix, namely, Smriti Datta, wife of Anirban Datta, and resident of 1442, Firebird Way, Sunnyvale CA 94087, United State of America as also of No. 44, Kolupukur Main Road, P.O. & P.S.–Chandannagar, District-Hooghly, Pin–712 136 wherein the Caveatrix alleged that such Will is fake and was prepared to defraud. It was also alleged that such Will is prepared to dispossess the Caveatrix from the property.

Consequently, the proceeding became contentious cause and had been renumbered.

On the basis of rival pleadings, following issues in the suit were framed:

1) Whether the instant Will is a last Will and Testament of the Testator?

2) Whether the Will is genuine or a manufactured one?

3) Whether the Testator was physically fit and mentally alert and had testamentary capacity at the time of execution of the Will?

4) Whether the Will got executed under duress, undue influence or taking advantage of any ailment of the Testator?

5) Whether the Testator executed the Will out of free will and volition?

6) Whether the Will was executed by practice of fraud at the time of execution of the Will?

7) Whether the Power of Attorney dated 14th January, 2019 was properly executed by the Defendant No. 2 or not in favour of Somnath Ghosh?

8) Whether the Will got executed under suspicious circumstances?

9) The Will was entitled to grant of Probate as prayed for?

Subsequently, the defendant failed to appear as a result of which the suit becomes an undefended one.

It was in the deposition of the attesting witnesses that the instant Will was the last one, being executed by the Testatrix in presence of the witnesses and she was physically fit and mentally alert at the time of execution of the Will.

The Defendant neither appeared nor provided for any evidence to support the contents of the plea taken in the written statement.

The death certificate of the Testatrix was produced and marked.

On the appreciation of the evidence and unchallenged testimony of the witness, this Court is of opinion that the Plaintiff has established her case and due execution of the will in terms of Section 63 of the Indian Succession Act, 1925 has been proved.

Let probate be granted to the said last Will and Testament of the deceased dated 6th October, 2018.

Inventory and accounts shall be filed within the statutory period from the date of grant of Probate.

This instant Probate application stands disposed of.

(Sugato Majumdar, J.)