OD-16

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
IN APPEAL FROM AN ORDER PASSED IN ITS TESTAMENTARY
AND INTESTATE JURISDICTION
ORIGINAL SIDE

APD/9/2026
IA No: GA/7/2026

IN THE GOODS OF:
SMT. KIRON BALA DEBI ALIAS KIRON BALA BANERJEE (DEC.)
-AND-
INDRAJIT BANERJEE
-VS-
SAMIR KUMAR CHATTERJEE AND ORS.

BEFORE:
The Hon'ble JUSTICE DEBANGSU BASAK
-AND-
The Hon'ble JUSTICE AJAY KUMAR GUPTA

Date: November 19, 2026.

Appearance:
Mr. Suman Kr. Dutt, Sr. Adv.
Ms. Debjani Ghosh, Adv.
Mr. Bhaskar Mukherjee, Adv.
Ms. Nafisa Yasmin, Adv.
...for the appellant

The Court: Affidavit-of-service filed in Court today be taken on record.

The instant appeal has been filed challenging the judgment and decree dated July 28, 2025 passed by the Single Bench in Testamentary Suit No. 30 of 2015 (PLA No. 189 of 2014) [In The Goods of: Smt. Kironbala Debi Alias Koronbala Banerjee (Deceased) -And- Indrajit Banerjee -Vs- Samir Kumar Chatterjee & Ors.].

By the said judgment and decree, the Single Bench rejected the application for grant of letters of administration on the ground that the appellant was unable to prove the signature and last Will of the Testatrix.

The application was filed for grant of letters of administration against the Will dated July 18, 1986 of Late Kironbala Debi, who died on January 23, 1993. At the time of adducing evidence, both the attesting witnesses as well as the scribe had already died, and nobody was there to prove the Will. Opposition was filed by the respondent for grant of letters of administration. In his written statement contesting the grant of letters of administration, the defendant took up the point of mismatch in signature. None appeared for the defendant to press such ground.

The appellant, adduced evidence with regard to the handwriting of the attesting witness. The signatures of the attesting witnesses were proved and marked as Exhibits C/2 and C/3 respectively.

Learned Trial Judge, however, considered the matter in its entirety and found that the signature of the testatrix was not established by relevant evidence/handwriting expert. The signature of the testatrix in the documents being Exhibit H and Exhibit C did not match, and therefore the learned judge proceeded to deny the grant letters of administration.

Now, the appeal has been filed seeking direction for a handwriting expert to be appointed to verify the signature of the testatrix to prove that the will was a registered one.

Learned counsel submits that prayers (a), (b), (c) and (d) of IA GA 7 of 2026 may be allowed for proper and effective adjudication of the testamentary suit on merits; otherwise, the appellant would suffer irreparable loss.

We find there are sufficient grounds to allow such prayers as made in IA GA No. 7 of 2026.

In view of the above facts and circumstances, we remit the matter to the learned Single Judge after setting aside the judgment and decree dated July 28, 2025. We request the learned Single Judge to allow the appellant/petitioner an opportunity to prove the signature of the testatrix appearing in the Will by addressing appropriate evidence. The matter will be decided on merits. We did not go into the merits of the case. The Trial Court will decide the same on its own merits independently and dispose of the same without being influenced by any of the observations made by this Court in this order.

With the above observation, the appeal and GA application is disposed of.

Connected application, if any, is also thus disposed of.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Hon'ble Court.

Urgent certified copy of this order, if applied for be supplied to the parties upon compliance of all formalities.

(DEBANGSU BASAK, J.)

(AJAY KUMAR GUPTA, J.)

sp3