

In the Court of Civil Judge (Jr. Division), Jhargram



Present : SHRUTI SINGH
Civil Judge (Jr. Divn), Jhargram District.

Final order delivered on this 10th day of April, 2025.

J. Misc. 54/2022

Sri. Mohini Mahata @ Mohini Mohan Mahata

..... Petitioner

and having stood for consideration to this day, the Court delivered the following
Order no. 14.

Today is fixed for delivery of final order.

Perused the materials on record.

The fact of this case in a nutshell is that the petitioner in the instant case is the nephew of one deceased Fakir Mahata who executed one Will dated 24/08/2005. The petitioner has stated that the testator of the instant Will dated 24/08/2005, passed away on 09/02/2008 within the jurisdiction of this Court leaving behind his nephew, i.e. the petitioner as his legal heir.

During his lifetime, the deceased, executed one Will in favour of his nephew, the petitioner, as the executor and beneficiary of his Will wherein he bequeathed all his properties as per schedule 'A' of the application in favour of his nephew namely Sri. Mohini Mahata @ Mohini Mohan Mahata. The aforesaid Will was executed by the deceased Fakir Mahata wherein the said Will was read over and explained to him after which he put his LTI in presence of the witnesses being Sri Shantanu Mahata and one more witness and they have also endorsed their signatures in presence of the testator. After the death of said testator, the aforesaid petitioner has filed this case in the capacity of executor and prayed for granting probate in favour of the petitioner the testament dated 24/08/2005.

To establish the facts of this case, the petitioner, the scribe of the Will namely Sri. Murari Krishna Mahata and one witness Shantanu Mahata have been examined as P.W.1, P.W.2 and P.W.3 respectively. The petitioner himself deposed as P.W.1 being the executor of the said Will.

During evidence, the original Will dated 24/08/2005 is marked as Exb.4, original death certificate of the testator i.e. Fakir Mahata is marked as Exb.1, newspaper publication in 'Jugshankha' dated 06/03/2024 is marked as Exb.3 and the Will is marked as Exbt 4 and the signature of P.W.2, and LTI of testator on the Will identified by the scribe, being PW2 is marked as Exb.4/1, and Exb 4/2 respectively. One LRROR being khatian no. 165 has been marked as Exbt 2.

On the basis of evidences on record, this Court is satisfied to hold that the testator namely Smt. Fakir Mahata, did possess the testamentary capacity at the time of executing the Will and he was physically fit and mentally alert at that time. After that the Will was read over and explained to the testator, who after going through the same without any influence or pressure from any corner, admitted the same and endorsed his LTI in every page of the Will in presence of the other witnesses and the drafter, who also put their signatures in presence of the testator on the said Will dated 24/08/2005. It has been admitted in the evidence that the testator executed the Will in presence of the witnesses.

No objection has been raised yet from any corner against the instant application for grant of probate.

It is evident from Order no. 05 dated 31/07/2023 that summons were returned after successful service. Later, the OPs had appeared by filing vakalatnama and filed their WO in form of no objection before this Court as reflected vide order no. 13 dated 09/04/2025.

Considering the present facts and circumstances and in view of the materials available on record, this Court has no hesitation to hold that the Will dated 24/08/2005 left by deceased Fakir Mahata in favour of the petitioner has been proved beyond all doubts. This case appears to have come to the stage of final order after observing all legal formalities as per rule. There appears no impediment in granting probate as prayed for.

Hence, it is

Ordered

That the case be and the same is allowed ex-parte but without any order as to costs.

Let the probate with a copy of annexed Will dated 24/08/2005 [Ext-4] be granted in favour of the petitioner as per his prayer.

The application is accordingly disposed of.

Note in relevant register and upload in CIS.

Typed by me,

(SHRUTI SINGH)
Civil Judge(Jr.Div.), Jhargam,
District Delegate.

