

Probate Case No.-248 of 2019

Order no.11, Date: 02.12.2021

The petitioner is represented through his Ld. Advocate.

Today is the date fixed for passing order.

Now the case record is taken up for passing order.

Heard on last occasion.

Applicants/petitioner’ Sri Sunil Das case in short is that Nilima Das(since deceased) was a residence of Flat No. B-2, 1st Floor of Northern Block at Premises No. 15C, Jubilee Park, P.S Jadavpur, Kolkata- 700 033 Dist. South 24 Parganas died on 10.04.19 at the aforesaid residence within the jurisdiction of this Court.

During her life time she executed a Will dated **24.12.2008** in favour of her legal heirs. The said will of the deceased Nilima Das was her last will and testament. Hence, the present petitioner/applicant, Sunil Das prays for grant of Probate in respect of the estate left by the testator.

The testator appointed the petitioner herein as executor of her last Will. The petitioner being the executor of the Will prayed for grant of Probate in respect of schedule mention in the application for grant of Probate. Applicant/petitioner Sunil Das along with one attesting witness Himadri Mukhopadhyay adduced themselves as P.W1 & P.W.2 respectively. During the course of evidence petitioner/applicants produced following document in order to establish his case.

Sl. No.	Exhibit No.	Nature of Document
1	1	Death certificate of Nilima Das
2	2 in series	Death certificate of Sunil Kumar Das and Subodh Kumar Das
3	3	Part of publication in Bengali daily newspaper 'Bartaman' dated 12.04.21Signature of P.W.2 on the Will
4	4	Original Will of Nilima Das
5	4(a)	Signature of P.W.2 on Will

Perused the case record and the materials available therein in the form of ocular and documentary evidence.

From the evidence of Sunil Das it is evident that deceased Nilima Das has had executed a will in favour of his legal heirs which has been supported by attesting witness. Also perused the original death certificate exhibited- 1 of Nilima Das issued by KMC. Upon perusal of the Exhibit- 1, I find that Nilima Das died on 10.04.19 at Flat No. B-2, 1st Floor of Northern Block at Premises No. 15C, Jubilee Park, P.S Jadavpur, Kolkata- 700 033 Dist. South 24 Parganas.

Contd.. Order no.11, Date: 02.12.2021

I have also perused the original 'Will' executed by deceased Nilima Das which goes to show that on **24.12.2008** the will was executed and it was read over to the testatrix in presence of witnesses. The contents of the will and testimony is found to be operative after the demise of Nilima Das.

Applicant published a news paper advertisement in respect of the notice (Exhibit-3) and Bartaman Newspaper dated 12.04.2021 after expiry of time stipulated in the notice none appear to contest the probate application.

It is also evident that at the time of execution of the 'Will' Nilima Das was mentally sound and had no any influence or coercion upon him. There is no any objection from the side of the consenting parties against the Will and testimony. The case of the applicant is an unchallenged one. So that applicant is entitled to get a probate of Act-39 case no.248/2019.

That it is further declared by the petitioner that no application has been made before any other Court for probate of the said will nor any suit or other proceeding is pending for letters of administration of the estate possessed by the deceased .

Hence, it is

O R D E R E D

that the application u/s 276 of the Indian Succession Act is allowed on ex-parte.

Let the application for granting a probate in favour of petitioner Sunil Das of the 'Will' executed by Late Nilima Das be probated on payment of highest Court Fees for the purpose of drawing up of the probate.

Sheristadar to check and report.

Let the Will be returned to the safe custody after the disposal of this case.

Dictd. & Corrtd. By me

Sd/-

District Delegate

South 24-Pgns , Alipore.

Sd/-

District Delegate

South 24-Pgns , Alipore.

