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IN THE HIGH COURT AT CALCUTTA
ORIGINAL SIDE
Ordinary Original Civil Jurisdiction

PLA No. 113/2010

IN THE GOODS OF: PASHUPATI NATH
BANERJEE (DECEASED)

Before:

The Hon'ble Justice BISWAROOP CHOWDHURY

Date: 16th September 2025APPEARANCE

Mr. Sarosij Dasgupta, Adv.
Mr. Sourath Nath Dutt, Adv.
Mrs. Subhra Das, Adv.
...for the petitioner

The Court: This is an application for grant of probate of the last Will and Testament dated the 21st February 1997 of the deceased Pashupati Nath Banerjee to the petitioner as Executor with effect throughout the State of West Bengal.

The contention of the Petitioner/Executor may be summed up thus:

1. That Pashupati Nath Banerjee, the deceased abovenamed who was during his life time and at the time of death a Hindu governed by the Dayabhaga, School of Hindu Law died on 17th March 2009. The said deceased died at 22/B Janak Road Tollygunge Kolkata – 700029 outside, the jurisdiction of this Hon'ble Court.
2. The said deceased during his lifetime had made and published his last will and testament dated 21st February 1997. The said Will was registered with the Registrar of Assurances, Calcutta on 21st February 1997.
3. By the said Will the deceased has bequeathed inter alia his right in the third floor of Flat No. 6 measuring 1475 sq.ft more or less in plot No. 8 in Block CA in Sector I, Bidhannagar (Salt Lake City) Kolkata – 700064 and appointed the petitioner as Executor to such Will.

4. The deceased was married to one Jharna Banerjee and the said Jharna Banerjee expired on 29th March 2009;
5. The Estate of the said deceased would have devolved upon the following persons in the event the said deceased died intestate according to the provisions of the Hindu Succession Act 1956.
 - I. Mr. Swaraj Kumar Banerjee – son of the deceased.
 - II. Mrs. Rachana Chatterjee – Daughter of the deceased.
 - III. Ms. Ananya Banerjee – Daughter of the deceased.
6. The heirs of the deceased did not give consent or no objection for the probate.

Pursuant to filing of this application both General and Special Citation were issued. Although Vokatnama and Caveat was filed by Swaraj Banerjee but no affidavit in support of the caveat is filed thus the caveat stands discharged and the application is taken up for hearing as non-contentious cause.

Heard Learned Advocate for the petitioner, perused the petition filed and materials on record.

Upon perusing the petition and materials on record it appears that affidavit of assets is filed along with this petition Further Asit Kumar Bhattacharya one of the attesting witnesses have filed affidavit stating that he was present when the Testator signed his said Last Will at Plot No. 8 in Block CA in sector I. Bidhannagar (Salt Lake City) Kolkata – 700064, and the signature in the English language appearing at the foot of the said Will as 'Pashupati Nath Banerjee' is the proper handwriting of the said deceased and was affixed in his presence and in the presence of Mr. Manik Chandra Malakar. Advocate of City Civil Court at Calcutta, and Dr. Jayanta Basu the other attesting witnesses. At the request of and also in presence of the said deceased he and Mr. Manik Chandra Malakar and Dr. Jayanta Basu affixed their respective signatures on the said Will as attesting witnesses. He deposed that the deceased had

full testamentary capacity and executed the said will in sound State of body and mind and out of his free will and volition.

Upon perusing the petition and the materials on record this Court is of the view that the testator had the mental capacity to execute a Will as required under Section 59 of the Indian Succession Act. The said Will was executed upon compliance of the provision contained in Section 63 of the Indian Succession Act, and one of the attesting witness also filed affidavit about execution of will as required under Section 68 of the Indian Evidence Act. Thus probate should be granted.

Hence probate of the last Will and Testament dated 21st February 1997 of the deceased pashup[ati Nath Banerjee be granted to the petitioner Hiralal Jain as Executor with effect throughout the State of West Bengal. Let probate be issued upon compliance of all necessary formalities.

(BISWAROOP CHOWDHURY, J.)