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IN THE HIGH COURT AT CALCUTTA
Testamentary and Intestate Jurisdiction
ORIGINAL SIDE

IA NO. GA/4/2025
In PLA/161/2005
IN THE GOODS OF HARI PRASAD JAISWAL (DEC)

BEFORE:

The Hon'ble JUSTICE BISWAROOP CHOWDHURY

Date : 18th September, 2025.

APPEARANCE:

Mr. Avirup Mondal, Adv.

Mr. Souvik Sen, Adv.

Mr. Debdipta Sen, Adv.

..for the applicant.

The Court:- Learned advocate for the applicant is present.

This application for grant of probate was initially filed by the applicant before this Court. Pursuant to the filing of this application on 18th July, 2005 probate was granted to the last Will and testament dated 5th June, 1998 of the deceased Hari Prasad Jaiswal. Pursuant to the grant of probate, one of the legal heirs of the deceased moved an application for revocation of the grant and the probate granted earlier was revoked by an order dated 6th April, 2010. Although affidavit in support of the caveat was filed but in the meantime, the caveatrix passed away and upon necessary enquiry by appointment of a special officer in this matter, it transpires that there are no legal heirs of the caveatrix Sudama Devi.

Thus, this application is taken up for consideration as a non-contentious cause. Upon perusing the petition and upon considering the materials on record, it appears that one of the attesting witnesses, Arup Kumar Chatterjee

deposed that he was present when the deceased set and subscribed his hand and also at the foot of the last will and testament dated 5th June, 1998. He also declared that he attested the said signature of the deceased Hari Prasad Jaiswal as the attesting witnesses in the said Will and in his presence. It further appears that at the request of the deceased and in his presence and in presence of another witness Dr. Haripada Biswas, they subscribed their names and signature and at the foot of the last Will and testament.

It is also deposed that at the time of execution of the said Will of the deceased, the said deceased was in sound position of mind and understanding. Upon perusing the petition and upon hearing the learned advocate and considering the deposition of the attesting witness, this Court is of the view that the testator had the testamentary capacity as provided under section 59 of the Indian Succession Act. The Will was executed in compliance with Section 63 of the Indian Succession Act and one of the attesting witnesses has deposed by affidavit required as under section 68 of the Evidence Act. Thus, the probate application should be allowed.

Hence, I allow this application for grant of probate.

Probate is granted to the petitioner executor of the last Will and testament bearing dated 5th June, 1998 of Hariprasad Jaiswal, deceased with effect throughout the Union of India.

Let probate be issued upon compliance of all necessary formalities.

The probate which is deposited to the Registrar, Original Side in terms of the direction of this Court, be handed over to the executor. The earlier order for revocation of grant of probate stands recalled.

PLA/161/2005 along with the application being GA/4/2025 is disposed of.

(BISWAROOP CHOWDHURY, J.)

Arsad, AR(CR)