

Order No.14
11.02.2020

Today is fixed for passing final order.

The petitioner is present by filing hazira.

This is an application for grant of probate in respect of the WILL of the deceased Prabir Majumder @ Prabir Kumar Majumder, S/o late Nripendra Majumder resident of Quarter no. D – 1/3, Bankim Chandra Avenue, B – Zone, P.O- Durgapur 05, P.S.-Durgapur, the-then District- Burdwan (now Paschim Bardhaman) in favour of Soumen Chakraborty, s/o Nripendra Ch. Chakraborty in respect of the property, mentioned in the schedule of the Will Probate application.

Late Prabir Majumder @ Prabir Kumar Majumder was resident of Quarter no. D – 1/3, Bankim Chandra Avenue, B – Zone, P.O- Durgapur 05, P.S.-Durgapur, the-then District- Burdwan (now Paschim Bardhaman). He died on 16.05.2016, leaving behind Soma Guha Thakurta (Married Daughter), Riddhi Majumder (Married Daughter), Jayanta Majumder (Son) and Susanta Majumder (Son). During his lifetime said Prabir Majumder @ Prabir Kumar Majumder executed his last WILL on **03.02.2013** appointing the petitioner namely Soumen Chakraborty as executor of that WILL. The WILL is an un-registered Will, made before the Notary Public Atabi Banerjee. The petitioner being the executor of the WILL prayed for grant of probate in respect of property, mentioned in the schedule of the Will Probate application.

The WILL is unregistered WILL, executed by the testator himself voluntarily and in good state of mind. It is last WILL of the testator in respect of the property, mentioned in the schedule of the Will Probate application. The deceased was Hindu by faith and is governed by the provisions of Hindu Succession Act, 1956.

After institution of this case on 18.04.2019, notice was published, but none appeared to contest the case. It is also found that no caveat has been filed over the matter.

The petitioner Soumen Chakraborty, as the executor of the last WILL of deceased Prabir Majumder @ Prabir Kumar Majumder has adduced the following witnesses :-

1. Soumen Chakraborty as p.w.1
2. Saikat Banerjee as p.w.2
3. Jyanendra Nath Sinha as p.w.3

The petitioner, apart from the oral testimonies, also relied upon the following documents:-

1. Signatures of testator Lt. Prabir Majumder @ Prabir Kumar Majumder in the original Will (Exhibit no.1 as a whole).
2. Original death certificate of Lt. Prabir Majumder @ Prabir Kumar Majumder (Exhibit no.2).
3. Signature of the attesting witness Saikat Banerjee in the original Will (Exhibit no.3)
4. Signature of the scribe Jyanendra Nath Sinha in the original Will (Exhibit no.4)
5. The entire original Will of Lt. Prabir Majumder @ Prabir Kumar Majumder, dated 02.03.2013 (Exhibit no.5).

After perusal of the application under section 276 of Indian Succession Act, 1925 together with the documents relied upon in support of the claim of the petitioner and after gone through the affidavit and other materials on record, it has been found that despite satisfactory publication none appeared before this court to contest this case or none raised any objection to the grant of probate

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as prayed for.

It is seen from the evidence on record that the petitioners Soumen Chakraborty as P.W.1 that he has virtually reiterated his own case as it has been mentioned in the application. The deceased Prabir Majumder @ Prabir Kumar Majumder was Hindu by faith and governed by Hindu Succession Act, 1956. It is evident from the Exhibit no.2 that he died on 16.05.2016. It has also seen from the evidence of the attesting witness Saikat Banerjee and Jyanendra Nath Sinha that the WILL made before Notary Public Atabi Banerjee on **03.02.2013**, was duly executed by the testator and in the said WILL he had intended to appoint the petitioner as the executor in respect of the property mentioned in the schedule of the Will Probate application. The last WILL of late Prabir Majumder @ Prabir Kumar Majumder has been duly proved before this court. The death certificate was duly granted by the authority concerned and there is no dispute what so ever coming before the court as yet.

Considering the above facts and circumstances of this case and all other materials on record being oral and documentary evidence, this court is of the view that there is no legal bar or impediment in granting probate of the Will. As such, the application for grant of probate should be allowed ex-parte.

Court Fees paid, is sufficient.

Hence, it is

ORDERED

that the instant case being Will Probate Case No.01/ 2019 be and the same is allowed ex-parte. Let the last WILL dated **03.02.2013**, made before the Notary Public Atabi Banerjee, of deceased **late Prabir Majumder @ Prabir Kumar Majumder** be probated.

Make entry in the relevant register.

Typed by me :

District Delegate,
Durgapur

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Durgapur.