

IN THE COURT OF CIVIL JUDGE (SENIOR DIVISION), MALDA

Misc. Probate 02 of 2017

Present: Sharmistha Ghosh,  
Civil Judge (Sr. Divn.),Malda.

**Order No. 15 dated 14-03-2018**

The Petitioners file hazira.

Today is fixed for passing of order and the record is taken up for the same.

This is an application under Section 278 of the Indian Succession Act, 1925 (hereinafter referred to as the Act) for grant of letters of administration of property that forms the subject matter of the Will executed on 13-08-1985 by the deceased testator Gujrati Debi Jaiswal.

By the application, the petitioner no.1 Umakanta Jaiswal, at the time of his examination as P.W.1 disclosed that the deceased Gujrati Debi Jaiswal during her lifetime executed her last Will dated 13-08-1985 voluntarily and with sound mind. The petitioner no.1 further disclosed that the testator Gujrati Debi Jaiswal died on 08-11-2001 while residing within the jurisdiction of this Court at District Hospital, Malda. The testator Gujrati Debi Jaiswal died leaving behind three sons viz, Srikanta Jaiswal, Umakanta Jaiswal (the petitioner No.1 herein) and Ramakanta Jaiswal, and four daughters viz, Sabitri Gupta, Radha Gupta, Rani Prasad and Maya Chowdhury as her legal heirs and successors. Srikanta Jaiswal also died on 12-07-17 leaving behind wife Mina Jaiswal, two sons viz, Dipak Jaiswal and Dinesh Jaiswal and daughter Sima Jaiswal.

Record speaks that after filing of this petition, special notice/citation was served on the place where the deceased person had last resided, and also notice was given to the general public through '*Bartoman*' Bengali newspaper publication dated 18-11-17 but none had appeared to oppose or contest the present application for grant of probate made by the above-named petitioners.

In order to prove their case, the petitioners have examined the following witnesses:-

P.W-1: Umakanta Jaiswal (the petitioner no.1 herein);

P.W-2: Lakshmi Bhakat.

**AND** the following documents had been marked as Exbts:-

EXBT.1- Original death certificate of deceased Gujrati Debi Jaiswal.

EXBT.2- Bengali News paper '*Bartoman*' dated 18-11-17 (page 8);

EXBT3: Original voter identity card of deceased Umakanta Jaiswal.

EXBT 4: Receipt copy of GD entry no. 367/17 of Englishbazar PS.

EXBT 5: The Will dated 13-08-85.

The PW-2 during her evidence has stated that all the attesting witnesses relating to the said will are not alive and her husband Dasharath Bhakat was one of the attesting witness of the said will and he also not alive. The PW-1 as well as PW-2 during their evidence has stated that the testator Gujrati Debi Jaiswal at the time of execution of the Will was of sound health and mind and she had executed the same without any pressure, coercion or inducement and also claimed to have seen the testator Gujrati Debi Jaiswal put her signature on every page of the Will in their presence.

From the materials placed before this Court, I am of the view that there is no impediment for grant of probate in favour of the petitioners Umakanta Jaiswal, Mina Jaiswal, Dipak Jaiswal, Dinesh Jaiswal and Sima Jaiswal in respect of the will dated 13-08-85 (EXBT- 5) executed by the deceased testator Gujrati Debi Jaiswal in respect of the property that forms the subject matter of the said will.

Accordingly, in exercise of the power vested to this Court under Section 290 of the Act, letters of administration is granted in favour of the petitioners Umakanta Jaiswal, Mina Jaiswal, Dipak Jaiswal, Dinesh Jaiswal and Sima Jaiswal in respect of the Will dated 13-08-85 executed by the deceased testator Gujrati Debi Jaiswal.

However, it is clarified that nothing in this order shall be construed to be an expression of opinion on the merits of the title of the deceased over the scheduled properties.

Petitioners are directed to put in requisite Court fees and file surety bond equivalent to the value of the property with two sureties within 15 (fifteen) days from the date of passing of this order.

The petitioners are directed to file an undertaking in respect of the property to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of grant and also to render to this Court a true account of the said property and credits within one year from the same date.

*Sheristadar* is directed to assess Court fees and report.

Letters of administration be issued in the name of the petitioners after observing all formalities.

Dictated and corrected by me,

Civil Judge,(Sr. Divn.), Malda

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