

1. Date of application for copy 18-3-15
2. Date fixed for notifying the requisites stamps 23-3-15
3. Date of delivery of the requisite stamps 23-3-15
4. Date on which the copy was ready for delivery 23-3-15
5. Date of making over the copy to the applicant 24-3-15
6. Cost of copy Rs-7-50 only
7. Number of Xerox sheets used 4 sheet - over



Probate Case No. 84 of 2010

Order No.30
30.01.2015

The record is put up today for hearing of this matter as per order dated 08.08.2014 and the same is taken up accordingly.

Heard argument.

This is a case filed by the petitioners Sri Siddhartha Sen and Sri Sugata Sen for grant of Probate of the last Will and testament dated 09.07.1986 executed by the Testator Satyendra Nath Sen, since deceased who was permanently and lastly residing at 44, Ramkanta Bose Street, Baghbazar, P.S. Shyampukur, Kolkata - 7000 03.

The instant case was taken up for hearing in presence of the learned Advocate appearing for the petitioners. The petitioners and the attesting witness, namely, Indrajit Sen son of late Dr. Ashok Sen submitted their evidence-in-chief in the form of affidavit under Order 18, Rule-4 of the Code of Civil Procedure. They were further examined on oath in full and discharged. The consenting parties namely, Smt. Aparna Mitra and Smt Anjana Bose have also filed their consent petitions separately. The death certificate of Satyendra Nath Sen, the original Will, signatures of Satyendra Nath Sen appearing on the Will, signatures of Dr. Ashok Sen and Ajoy Kumar Sen (both since deceased) as attesting witnesses appearing on the Will in respect of premises No. 44, Ramkanta Bose Street, P.S. Shyampukur, Calcutta-700003 are marked Exts.1, 1/1, 1/2(collectively), 1/3 and 2 respectively.



The petitioners' case, in brief, is that Satyendra Nath Sen, a Hindu governed by Dayabhaga School of Hindu Law, who

used to reside at 44, Ramkanta Bose Street, P.S. Shyampukur, Calcutta-700003. Late Satyendra Nath Sen before his death executed a Will on 09.07.1986 and thereby appointed the petitioners as the joint executors of the said Will who died at the residence of 42B, Ramkanta Bose Street, P.S. Shyampukur, Kolkata - 700003 on 30.10.1992 which is reflected from the death certificate issued by Kolkata Municipal Corporation and affidavit sworn by one of joint executors under Order 18 Rule 4 of the CPC leaving behind his two sons and two daughters namely, Sri Siddhartha Sen and Sri Sugata Sen, Smt. Aparna Mitra and Smt Anjana Bose as his legal heirs and representatives and none else. The wife of the deceased also predeceased him long back. The petitioners have not filed any other application in any other court for grant of probate or letter of administration in respect of the bequeathed properties. So, they have prayed for grant of probate of the Will in their favour.

In spite of service of notice and publication of citation in daily newspaper, none has come forward to oppose the prayer. Rather, the other legal heirs of the deceased have filed separate application giving their consent to the grant of probate as prayed for by the petitioners.

In order to prove their case, the petitioners have examined themselves and one attesting witness namely, Indrajit Sen. It is also evident from the evidence garnered on record that the Testator Satyendra Nath Sen was physically fit and mentally alert at the time of execution of the Will. I have nothing to disbelieve the unchallenged evidence adduced by the petitioners and the attesting witness.

Thus, banking on the evidence adduced by the witnesses in support of the case, I do hold that the petitioners have been able to prove their case and as such, they are entitled to get Probate of the Will as sought for.

In the result, the case succeeds.

Stamp duty has not been paid.

Hence,

Ordered

that the case be and the same is allowed ex parte. The petitioners Sri Siddhartha Sen and Sri Sugata Sen do get Probate of the Will dated 09.07.1986 executed by the testator; Satyendra Nath Sen and a copy of will be annexed thereto on payment of requisite stamp duty as assessed by the office.

Let the original will be kept in safe custody of the Assistant-in-charge (Probate Section) of the office of this court.

The exhibited documents be returned if applied for to the petitioners on their filing certified copy of the same.

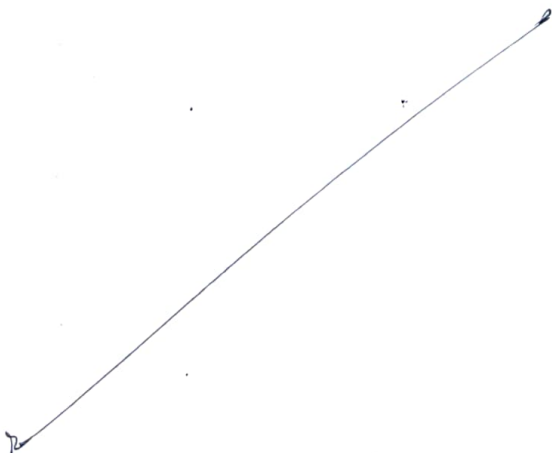
Dictated & corrected by me:

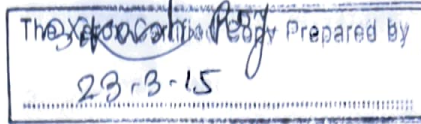


Chief Judge.



Chief Judge.





Examined and found to be a
true copy and correctly stamped
Shyam Sundar
23.3.15
Comparing Clerk
City Civil Court
Calcutta

CERTIFIED TO BE A TRUE COPY
Bholananda Goswami

HEAD COMPARING CLERK
Authorized under Section 23-3-15
76, Act 1 of 1972

LAST WILL AND TESTAMENT

THIS IS THE LAST WILL AND TESTAMENT OF ME, I,
SRI SATYENDRA NATH SEN, son of Late Hemchandra Sen by
faith Hindu by occupation Pension-holder aged about 77 1/2
80 years residing at No.44, Ramkanto Bose Street,
Police Station - Shyampukur, Calcutta- 700 003.

I hereby revoke all Wills, Codicils and other
Testamentary dispositions made by me at any time
heretobefore and I declare this to be my last Will
and Testament.

I appoint Sri Siddhartha Sen and Sri Sugata
Sen both sons of mine to be the Executors of this
Will and Trustee of my estate. I direct that my said
executors will act jointly and/or severally and shall
soon after obtaining Probate Will pay, discharge and
satisfy all my just, debts, dues and liabilities.

I will and direct that my said two sons
Sri Siddhartha Sen & Sri Sugata Sen will be entitled
to all my estate and effects thereof absolutely and
for ever. My wife already predeceased me and my two
daughters i.e. Smt. Aparna Mitra and Smt. Anjana Bose
both are married and they are well placed in their
lives. As such, I do not make any provision for them
by this Will.

I hereby leave, give, devise and bequeath all
my properties, use and benefits, estates and credits

contd.....p/2.

Satyendra Nath Sen.
[Signature]

:- (2) -:

both movable and immovable of whatsoever character or whatsoever situate including all reversion expectancy and future assets acquired hereafter, if any, to my said two Sons in equal shares absolutely.

In witness hereof I have hereby set and subscribed my hand and signature this 9th day of July, 1986.

Satyendra Nath Sen
(Sd/-)

Signed by the said Satyendra Nath Sen as his last Will and Testament in our presence all being present at the same time. Thereafter at his request and in his presence we subscribe our respective names and signatures as attesting witnesses all being also present at the same time.

Asom Sen.

49, Ramkanta Bose Street
Calcutta - 700003.

Him Kumar Sen

43 A, Bhupen Bose
Avenue
Calcutta - 700004.