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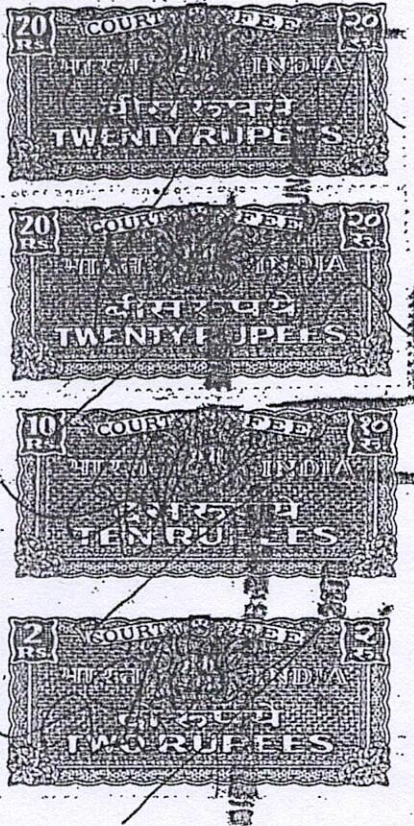
P.L.A. NO. 367 OF 1999

IN THE HIGH COURT AT CALCUTTA

TESTAMENTARY AND INTESTATE JURISDICTION

In the goods of :

Phanindra Nath Bhur
Lately residing at 24A,
Shyampukur Street,
P.S. Shyampukur,
Calcutta-700 004
Hindu inhabitant, Deceased.

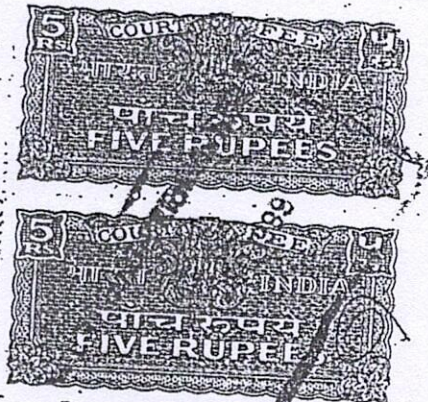


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P.L.A. No. 367 of 1999

IN THE HIGH COURT AT CALCUTTA
TESTAMENTARY & INTESTATE JURISDICTION



IN THE GOODS OF :

Phanindra Nath Bhur lately
residing at 24A, Shyampukur Street,
P.S. Shyampukur, Calcutta-700 004;
Hindu inhabitant, Deceased.

To

The Hon'ble Mr. Shyamal Kumar Sen, the Acting Chief
Justice and His Companion Justices of the said Hon'ble
Court.

The humble petition on behalf of Sri
Ranendra Nath Bhur of 24A, Shyampukur
Street, P.S. Shyampukur, in the town
of Calcutta, Pin : 700 004 the Executors
named in the Last Will and Testament of
the deceased abovenamed.

Most Respectfully Sheweth :-

1. That the said Phanindra Nath Bhur, the deceased
abovenamed lately residing at 24A, Shyampukur Street, P.S.
Shyampukur, Calcutta-700 004 within the aforesaid Jurisdiction
who was during his life time and at the time of his death a
Hindu Governed by the Dayabhaga School of Hindu Law.

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2. That the said Phanindra Nath Bhur, the deceased abovenamed died at ¹⁹ Vishudhananda Saraswati ~~Marathi~~ Hospital P.S. Amherst Street, Calcutta-700 009 within the aforesaid jurisdiction on 8th May 1979.

3. That the deceased abovenamed prior to his death made and published his last will and testament in English language and character bearing dated the 3rd day of May, 1968 A.D. The said will of the deceased was duly registered on 3rd day of May 1968 in the office of the Registrar of Assurance Calcutta and duly entered in Book NO. III, Volume No.3, Pages 102 to 104, Being No.147 for the year 1968. The said original will is annexed and filed herewith and marked with Letter 'A'. By the said will the deceased abovenamed appointed your petitioner, Sri Ranendra Nath Bhur and Sovamoyee Bhur as the Executor and Executrix. The said Sovamoyee Bhur wife of the deceased died on 19th April 1977 and as such the petitioner is the only executor living.

4. That all three attesting witnesses namely 1) Jitendra Mohan Rakshit died on 21st March 1982 2) Krishna Kishore Bhur died on 7th May 1997 3) Rabindranath Basak died on 20th April 1998.

5. That as all the attesting witnesses are dead, the will was required to be proved by a person present at the

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[Signature]

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time of execution of the said last will and testament of the deceased.

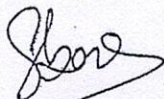
6. That Sri Sisir Roy Chowdhury a lawyer's clerk was present at the time of execution of the said last will and testament of the deceased abovenamed.

7. That the execution of the said will is proved by an affidavit of said Sri Sisir Roy Chowdhury son of Late Amulya Roy Chowdhury residing at 63, Tollygunge Road, Calcutta-700 033, who was present at the time of execution of the said last will and testament dated 3rd May 1968 A.D. of the deceased abovenamed, affirmed on the 18th day of April 1999 as well as her declaration made at the foot of the said petition.

8. That the Estate Duty Clearance Certificate is not required in view of judgement of the Hon'ble Supreme Court in Civil Appeal No. 2107 of 1980 in the matter of Ashok Singh -vs- Assistant Controller of Estate Duty, Calcutta and Ors. Reported in AIR S.C. Page 1756 Para 13A, 15, 20, 21, 22.

9. That the deceased abovenamed died living his immovable and movable properties situated within and outside the original jurisdiction but within the testamentary and intestate jurisdiction of this Hon'ble Court. The particulars

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of the said movable and immovable properties is set forth in the affidavit of assets affirmed by your petitioner on the 18th day of December 1998 and filed herewith.

10. That the particulars of the assets of the said deceased which will come or likely to come to your petitioner hand are set out in the said affidavit of assets affirmed by your petitioner and filed herewith and will appear therefrom the net value of the assets which are likely to come to your petitioner's hand would be amounting to Rs.29,800/- .

11. That your petitioner states that so far your petitioner have been able to ascertain and/or are aware of, there are no other properties and assets coming to your petitioner's hand. Your petitioner undertakes to pay additional advalorem duty in respect thereof if any assets found out later on.

12. That your petitioner have paid advalorem duty payable in respect of the net assets of the said deceased as will appear from the certificate of the Hon'ble Registrar, original side of this Hon'ble Court filed herewith and marked with letter 'B'.

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13. That to the best of your petitioner's knowledge and belief that no application has been made to this Hon'ble Court or any other High Court or District Court in the above goods for grant of probate of the said will and/or letters of Administration of the property and credits of the said deceased and no intimation has been received by this Hon'ble Court from any other High Court or District Court for any grant of probate or letters of Administration of the property and credits of the said deceased with effect through out the whole of the Union of India as will appear from the certificate of the Hon'ble Registrar, Original Side of this Hon'ble Court annexed hereto and marked with the letter 'C'.

14. That the deceased abovenamed at the time of his death left him surviving the following persons as her legal heirs, heiresses, successors and legal representatives and no one else who are all suiguris :-

<u>Name</u>	<u>Address</u>	<u>Relation with the deceased</u>
1. Sri Ranendra Nath Bhur (Executor/Petitioner)	24A, Shyampukur Street, Cal-4	only son
2. Smt. Reba Paul	2, Smriti Bhusan Lane, Cal-6	elder daughter
3. Smt. Gita Dey	38D & E, Nilmony Mitra Street, Calcutta-6.	younger daughter

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Done

15. Your petitioner states that save and except your petitioner the aforesaid legal heirs have given their full consent in writing at the foot of this petition filed herewith and have no objection to the probate being granted and issued in favour of your petitioner as the executor and beneficiary to the said last will and testament dated 3rd May 1968 of the deceased abovenamed.

16. That your petitioner is not a legal minded people and as such petitioner was not aware about the matter of obtaining probate. The petitioner thought that his father i.e. the deceased abovenamed gave left and bequeathed his all properties movable and immovable by the said last will and testament but he was not aware about the matter of obtaining probate of the said last will and testament of the deceased.

17. That in course of discussion with Mr. Kalyan Chatterjee, Advocate relating to a family settlement of the immovable property, left by the deceased, in favour of the petitioner's wife and daughter it was revealed to your petitioner that a probate is required to be obtained from an appropriate court of law and accordingly as per advised of

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Done

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Mr. Kalyan Chatterjee, Advocate the petitioner taken all steps for obtaining probate of the said last will and testament of the deceased and your petitioner beg to file the instant petition for grant of probate in this Hon'ble Court.

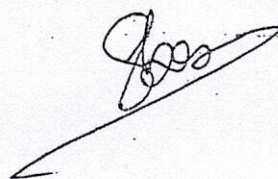
18. That your petitioner submits and prays before Your Lordships that the delay if any in filing this petition may please be condoned. Your petitioner further submits that if the delay in filing this petition not condoned by Your Lordships your petitioner shall suffer irreparable loss and injury.

19. That in the premises your petitioner submits that this Hon'ble Court would be pleased to pass an order for issuing grant of probate in respect of the said last will and testament dated 3rd May 1968 A.D. of the deceased abovenamed to your petitioner being the Executor ~~is~~ named therein with effect through out the State of West Bengal.

20. Until and unless an order is passed, as prayed for, your petitioner will suffer irreparable loss and injury.

21. That this application is made bonafide and for the ends of justice.

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Your petitioner, therefore humbly
pray before Your Lordships for an
order :-

- a) That the probate of the last will
and testament dated 3rd May 1968 A.D.
of the deceased abovenamed be granted
and issued to your petitioner as the
Executor with effect from and through
out the State of West Bengal ;
- b) The cost of, incidental to this
application be paid by your petitioner
out of the estate of the deceased
abovenamed ;
- c) Such further or other order or orders
be made as to this Hon'ble Court may
deem fit and proper in this case.

And your petitioner, as in duty bound shall ever pray.

Petitioner's Advocate

Kalyan Chatterjee
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Ramendranath Bhunia

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VERIFICATION

I, Sri Ranendra Nath Bhur, son of Late Phanindra Nath Bhur, do hereby declare and say that the statements contained in paragraphs No. 1 to 17 of the foregoing petition are true to my knowledge and those contained in paragraph Nos. 18 to 21 thereof are my humble submissions and the rest are my humble prayers before this Hon'ble Court.

I sign this verification at the High Court Premises at Calcutta on this the 21st day of December 1999.

Ranendra Nath Bhur

Seal

DECLARATION

I, Sri Sisir Roy Chowdhury son of Late Amulya Chandra Roy, residing at 63, Tollygunge Road, Calcutta-700 033, do hereby declare and say that I was present and saw the deceased abovenamed to execute his said last will and testament dated 3rd May 1968 by putting his signature in English Language at the foot of the said will in my presence and in the presence of the other attesting witnesses Jitendra Mohan Rakshit, Solicitor, deceased, Krishna Kishore Bhur, deceased and Rabindra Nath Basak, clerk to said Jitendra Mohan Rakshit. Thereafter the said attesting witnesses also put their respective signatures in English Language at the foot of the said will in presence of deceased abovenamed as well as in the presence of each other. Before execution the contents of the said will was read over and explained by said Jitendra Mohan Rakshit, Solicitor to the testator and the said execution was duly admitted before the Registrar of Assurances Calcutta and the said last will & testament dated 3rd May 1968 duly registered in the office of the Registrar of Assurances, Calcutta.

Signed by me in the High Court Premises, Calcutta on this the 21st day of *December* 1999.

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Sri Sisir Roy Chowdhury

Jone

by

C O N S E N T

We, Smt. Reba Paul wife of Late Nanda Dulal Paul residing at 2, Smriti Bhusan Lane, Calcutta-700 006 and Smt. Gita Dey wife of Bhuban Lal Dey residing at 38D & E, Nilmony Mitra Street, Calcutta-700 006 both are the daughter of Late Phanindra Nath Bhur hereby give our full consent and have no objection to the Probate being granted and issued in favour of our brother namely Sri Ránendra Nath Bhur, the Executor to the Last Will and Testament dated 12th August, 1968 A.D. of the deceased abovenamed and we also hereby waive any kind of citation or notice to us.

The above signatory signed in my presence and identified by me

Nalagan Chatterjee
Advocate.

Reba Pal

Gita Dey

CERTIFIED TO BE A TRUE COPY
Somnath Bose 8/6/2000
Authorised under SECTION 78 of the
Indian Evidence Act, 1872 (Act-I of 1872)
S. P. Mahabo
8/6/2000

Checked
Sr.
08.06.2000

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P.L.A. NO. 367 of 1999

IN THE HIGH COURT AT CALCUTTA

TESTAMENT & INTESTATE JURISDICTION

P(W)
W.B.

IN THE GOODS OF :

Phanindra Nath Shur lately residing
at 24A, Shyampukur Street, P.S.
Shyampukur, Calcutta-700 004
Hindu inhabitant, the deceased.

A N D

IN THE MATTER OF :

An application for grant of Probate
to Sri Ranendra Nath Bhur of 25A,
Shyampukur Street, P.S.-Shyampukur,
Calcutta-700 004, the Executor named in
the Last Will and Testament of the
deceased abovenamed.

P(W)
25.2.2000

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P E T I T I O N

Filed on the 22nd day of December
1999

Registrar
c.s. no

Mr. Kalyan Chatterjee (Advocate) 4
High Court, Bar Association
Room No.8, Calcutta.

Registrar High Court
Original Side

P.L.
(Final order for Exors)
W.B.
- 29/1/1999

No. Case - Suak
25/1/2000

9
10.3.2000

8.5.19

P(W) Issued on 10.3.2000

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