

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

MA No. 30/2025

**Vijinder Singh Slathia,
Age 69 years,
S/o Late Sh. Ganpat Singh
Slathia,
R/o H. No. 10, Phase 2,
Housing Colony, Udhampur,
Tehsil and District Udhampur**

.....Appellant(s)/Petitioner(s)

Through: Mr. Arvind Singh Jalmeria, Advocate

Vs

Nemo

..... Respondent(s)

Through:

CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE
ORDER
(08.07.2025)

- 01.** With respect to a purported document said to be a Will deed dated 14.06.1987 of one Kasitu Singh S/o Late Sh. Sonu Singh resident of Bagoona tehsil Vijaypur (erstwhile Samba) district Samba, the appellant-Vijinder Singh Slathia came to apply for probate before the court of learned Principal District Judge, Samba on file No. 4/2024/Probate without naming anyone as respondent.
- 02.** The alleged testator of the Will had demised on 19.06.1987 and therefore, the alleged Will was to relate back to the said date if it would have been probated and by that reference it

is the Probate and Administration Act, Svt. 1977 (J&K) which was supposed to be governing the probate petition so filed by the appellant.

- 03.** The appellant came forward seeking probate with the institution of a petition filed before the court of learned Principal District Judge, Samba taking place on 20.08.2024.
- 04.** In the petition for probate, the appellant did not disclose as to who is the scribe of the alleged Will and who are the actual attesting witnesses, because of lack of full description of the attesting witnesses as mentioned in the alleged Will except bare names of one Rajinder Singh and other Satinder Singh, so-called attesting witnesses as claimed by the appellant to be his real brother and that being so son of Ganpat Singh Slathia.
- 05.** The alleged Will did not disclose as to with respect to which estate/property of the testator the same was meant to be a declaration with respect to succession.
- 06.** The petition filed by the appellant was verified by Satinder Singh as being one of the two attesting witnesses.
- 07.** The Principal District Judge, Samba, by virtue of an order dated 07.04.2025, came to dismiss the petition so filed by the appellant holding it as time-barred by relying on article

137 of the Limitation Act, 1963 (Central Act) equivalent to article 181 of the J&K Limitation Act, 1995 reckoning a period of (34) long years to be fatal for the petition of the appellant seeking probate.

- 08.** Mr. Arvind Singh Jalmeria, learned Advocate appearing for the appellant submits that the court below is wrong in its understanding of article 137 of the Limitation Act, 1963 and for that purpose refers to a judgment of Hon'ble Supreme Court of India in a case titled "**Kunvarjeet Singh Khandpur Vs. Kirandeep Kaur & Ors.**" **AIR 2008 SC 2058** wherein contrary to the reading of Mr. Arvind Singh Jalmeria, learned Advocate, the judgment confirms that article 137 of the Limitation Act, 1963 is fully applicable prescribing a limitation period of three years for a petition like probate or letters of administration with Will annexed or without Will to be filed from the day right to sue accrues.
- 09.** Mr. Arvind Singh Jalmeria, learned Advocate submits that in this case it was pleaded that the right to sue accrued in the year 2019 when the petitioner was handed over the original of the alleged Will by his brother Satinder Singh, one of the two alleged witnesses.
- 10.** If that is so, then under section 9 of the Limitation Act, time started running for three years period for the appellant to act and by that reference by the end of year 2022 the

appellant ought to have been with a petition for probate before the Principal District Judge, Samba which, however, is not the situation as the petition came to be filed on 20.08.2024, and that would still make the petition so filed by the appellant time-barred notwithstanding the alleged plea of the appellant that he had suffered brain hemorrhage which took time for the appellant to recover. Section 9 of the Limitation Act is not subject to any stoppage by reference to such like disability.

11. Thus, even if the computation of the time made by the Principal District Judge, Samba in holding the petition time-barred be held to be not correct for argument's sake, still the judgment/order is correct as the petition itself is time-barred by reckoning it from the year of knowledge of the Will in the year 2019.

12. In view of the aforesaid, the appeal is ***dismissed***.

(RAHUL BHARTI)
JUDGE

JAMMU
08.07.2025
SUNIL

Whether the order is speaking	:	Yes
Whether the order is reportable	:	Yes