

IN THE HIGH COURT OF JUDICATURE AT PATNA

Test Case No.10 of 2013

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In The Goods of Late Smt. Tara Devi

(In the matter of an application under Sections
273 & 276 of the Indian Succession Act, 1925)

- i) Ravi Nandan Prasad.
ii) Raj Nandan Prasad
Both sons of Late Dr. Swaminandan Prasad,
resident of “Shiv Shakti” S.P.Verma Road, P.S. Gandhi Maidan,
town and district of Patna.

.... Applicant.

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Appearance :

For the Applicant : Mr. LAXMI NARAYAN DAS, Adv.

For Near Relative : M/s Sangeet Deokuliar, Pankaj Maijorwar and
Anis Akhtar, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 07.01.2016

Heard counsel for the applicants.

The present propounder-applicants are sons of the testatrix who testamentated the will on 26th September 2007 appointing both sons as executors, of Will has filed the present case for probate of the Will.

Late Tara Devi, testatrix, is wife of Late Dr. Swaminandan Prasad, well known Doctor of Patna town having two sons, namely, Ravi Ranjan Prasad and Raj Nandan Prasad and four daughters (i) Smt. Purnima Devi @ Purnima Kumar, (ii) Smt. Shubhashini Sinha, (iii) Smt. Vidushi Prasad @ Vidushi Rakesh and



(iv) Smt. Ratna Kumar. On 26th September 2007 the Will was executed and the testatrix died on 9th July 2013. After registration of this case, general citation and special citations were issued. In pursuance thereof the Near Relations appeared, did not raise any objection for grant of probate of the Will.

Altogether, three witnesses have been examined, Vikash Maijorwar (A.W.1) and Arun Prakash (A.W.2) both are attesting witnesses and they have approved the attestation in terms of Section 63 of the Indian Succession Act, 1925 and Section 68 of the Evidence Act. Ravi Nandan Prasad (A.W.3) is the applicant who is elder son. All the three have been examined. The original Will has been marked as Ext-1, the signature of the testatrix has been proved to be Ext-2 to 2/5, Ext-3 is the signature of Vikash Majorwar (A.W.1) showing attestation of the Will, Ext-3/1 is the signature at the back of page-1 by way of identification of the signature of testatrix before the Registrar and Ext-4 is the signature of another witness Arun Prakash (A.W.2). Vikash Majorwar (A.W.1) and Arun Prakash (A.W.2) stated that she called both of them on 26th September 2007 and in their presence, she had executed the Will and on her request, both of them in proof of attestation of the Will put their signature. Both of them have stated that the testatrix at the time of execution of the Will was of sound health and mind and she executed the Will after

understanding the contents of the same.

The near relatives daughters have appeared on receipt of notice of the special citation and have not dispute d or objected to probate the Will and have not challenged that the Will was not executed in a sound mind, without understanding the contents of the Will, was under any influence or misled by any one.

In view of the aforesaid facts recorded, this Court is satisfied that the testatrix executed the Will after understanding the contents mentioned therein in sound state of mind and without any undue influence or misrepresentation satisfied the conditions provided under Section 63 of the Indian Succession Act and Section 68 of the Evidence Act.

This Court also holds that it is the last Will of the testatrix appointing the executors, who are applicants of probate, annexing the copy of the last Will testamentated on 26th September 2007 by Smt. Tara Devi, accordingly probate is granted which shall effect throughout the territory of India.

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(Shivaji Pandey, J)