

IN THE HIGH COURT OF JUDICATURE AT PATNA**Test case no. 02 of 2016**

In the Goods of Late Rajendra Kuer Son of Late Nar Singh Kuar
resident of village Gauspur, P.S. Kathaiya, District Muzaffarpur
at present residing at House No. 17, Nageshwar Colony,
P.S. Budha Colony, District Patna.

AND

In the matter of an application filed u/s 276 of Indian Succession Act
for grant of Letters of Administration of the Registered Will dated
14.11.2011 to the executed by Testator Late Rajendra Kuer.

AND

In the matter of Sri Vindhya Keshri Kumar, Sr. Advocate,
Son of Late Rajendra Kuer, resident of House No. 17, Nageshwar
Colony, P.S. Budha Colony, district Patna.

-----Applicant.

Appearance

For the applicant : - Mr. M.N. Parvat, Sr. Advocate.

Mr. Shailendra Kumar Singh, Advocate.

**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

CAV JUDGMENT

Date: 22-12-2017

1. Heard learned counsel for the applicant.

2. This Testamentary case has been filed by the applicant
under section 276 of Indian Succession Act for grant of Letters of
Administration of the registered Will dated 14.11.2011 executed by
the Testator Late Rajendra Kuer for disposition of properties standing
in his name after his demise. The properties covered under the
Registered Will are all self acquired properties of the Testator.



3. The Testator was a Hindu governed by the Mitakshara School of Law.

4. The Testator died on 18.10.2014 at his village home, situate at Muzaffarpur, leaving behind this Will to take effect after his death.

5. The Testator had two sons and three daughters namely Sri Vindhya Keshari Kumar, Sri Binod Kumar, Smt. Lalita Devi W/o Sri Umashankar Prasad Singh, Smt. Lalsa Devi W/o Late Ram Murti Singh and Smt. Manorama Devi W/o Sri Ram Nath Singh. The wife of Testator died on 02.12.2007 in the lifetime of testator itself. All the three daughters of the testator have been married in well-to-do families and they are leading their life lavishly. Smt. Lalsa Devi (NR-3) died on 14.08.2016 during the pendency of this case and she was substituted by her two sons namely Sri Sanjay Singh and Sri Pankaj Singh @ Mintu under order dated 10.02.2017.

6. Under the Will dated 14.11.2011 executed by the testator, his two sons namely Sri Vindhya Keshri Kumar and Sri Bonod Kumar have been named as beneficiary and legetee of the Will. The total valuation of properties covered under the Will has been declared by the applicant as Rs. Thirty Lakhs only. Under the will dated 14.11.2011, the testator has bequeathed Schedule-I properties in favour of his first son Sri Vindhya Keshri Kumar and Schedule-II properties in favour of his second son Sri Binod Kumar.

7. The Testator executed the Will dated 14.11.2011 in



presence of two attesting witnesses namely (1) Sri Bimal Kumar Son of Late Siyaram Sharma resident of House No. 17 Nageshwar Colony Patna and (2) Sri Lagandeo Rai Son of Late Ishwar Rai, resident of village Gauspur, P.S. Kathaiya, District Muzaffarpur. The will was got registered on same day before the District Sub-Registrar, Registration Office, Patna.

8. After institution of this case, special citations were issued against five Near Relatives of testator under order dated 18.11.2016 and served validly also. N.R.-1, 2 and 4 also appeared in this case by filing their Vakalatnama but did not raise any objection for grant of Letters of Administration of the Will in favour of applicant. The General citations were also published in The Times of India, Patna on 27.11.2016 and in Dainik Bhaskar, Patna on 26.11.2016, but in response thereof, no one appeared to object the grant of Letters of Administration to the Will dated 14.11.2011 executed by the Testator. Hence, this case remained uncontested till the end.

9. In support of the case, the applicant examined two Attesting Witnesses of the Will namely Sri Bimal Kumar as A.W.1 and Sri Lagandeo Rai as A.W.2. The present applicant Sri Vindhya Keshri Kumar examined himself as A.W.3. During evidence, entire original will was marked as Exhibit-1 and signature of Attesting Witness Lagandeo Rai was marked as Exhibit-2.

10. During examination of witnesses, both the Attesting Witnesses Bimal Kumar (A.W.-1) and Lagandeo Rai (A.W.2) had



approved the attestation in terms of Section 63 of the Indian Succession Act, 1925 and Section 68 of Indian Evidence Act. A.W.3 Vindhya Keshri Kumar is the elder son of the testator.

11. In his deposition, A.W.1 Bimal Kumar stated that he knew testator from before. The Testator along with him went to Registry Office on 14.11.2011 and met one Vikash Kumar, Advocate. Vikash Kumar, Advocate drafted the Will as per instructions of testator Rajendra Kuer, which was typed by one Sunil Kumar, Typist. The testator himself read-over the draft and after being satisfied with the contents of draft, Rajendra Kuer executed the Will in presence of him, Lagandeo Rai (A.W.-2) and also in presence of Vikash Kumar, Advocate and Sunil Kumar, Typist. Thereafter, the testator Rajendra Kuer went to the Registry Office, Patna along with him and Vikash Kumar, Advocate for registration of Will before the District Sub-Registrar, Patna. The Will was got registered on same day i.e. 14.11.2011. The A.W.-1 Bimal Kumar identified the Will (Exhibit-1). He also identified his signature as also the signatures of testator Rajendra Kuer and Lagandeo Rai (A.W.-2) over the Will. A.W.-1 Bimal Kumar also identified the signatures of Vikash Kumar Advocate and Sunil Kumar, Typist. He also stated that the testator Rajendra Kuer was in good state of body and mind, when he executed the Will.

12. A.W.2 Lagandeo Rai in his deposition before the court, stated that the testator Rajendra Kuer voluntarily executed the Will in



sound state of body and mind on 14.11.2011 in presence of him and also in presence of Bimal Kumar (A.W.-1) without any pressure or coercion from outside. He also stated that Sri Bimal Kumar (A.W.1) had identified the testator before the Registrar. A.W.2 Lagandeo Rai identified his own signature over the Will as Attesting Witness, which was marked as Exhibit.2.

13. A.W.3 Vindhya Keshri Kumar is the applicant himself. In his examination, he stated that original Will was given to him by his father, the testator. He also recognized the original Will (Exhibit-1). He also stated that except the present case, no other probate case has been filed. A.W.3 Vindhya Keshari Kumar recognized the signatures of his father and that of two attesting witnesses namely Bimal Kumar and Lagandeo Rai over the Will.

14. In view of aforesaid facts and going through the original records of the case, this Court is satisfied that the testator Rajendra Kuer had executed the Will dated 14.11.2011 after understanding the contents mentioned therein in sound state of body and mind without any external pressure or coercion or misrepresentation. This Court finds no difficulty in accepting the case of applicant which has been proved beyond reasonable doubt.

15. This Court also holds that it is the last Will and testament of the testator Rajendra Kuer.

16. Accordingly, this application is allowed. Let the Letters of Administration of the Will dated 14.11.2011 be issued in favour of



applicant of this case with a copy of Will annexed thereof which shall have effect throughout the territory of India.

Shahid/-

(Hemant Kumar Srivastava, J)

AFR/NAFR	NAFR
CAV DATE	01.12.2017
Uploading Date	23.12.2017
Transmission Date	

