

IN THE HIGH COURT OF JUDICATURE AT PATNA
Test Case No.13 of 2012

In The Goods of Late Pan Kuar Devi wife of Late Ram Naresh Singh,
resident of Village and P.O. Bishunpura, P.S. Bihta, District- Patna.

AND

In the matter of an application under Section 273 and 276 of the
Indian Succession Act for grant of letter of administration of the Registered
Will dated 3.2.2005 executed by Most. Pan Kuar Devi.

AND

In the matter of an application filed by

1. Arbind Singh.
2. Anil Kumar, Both sons of Sri Suresh Singh, Resident of Village and P.O.
Bishunpura, P.S. Bihta, District Patna.

... .. Petitioner/s

Versus

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Abhay Shankar Singh
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 13-12-2018

The present application has been filed by the two
applicants, namely, Arbind Singh and Anil Kumar Singh, sons of
Suresh Singh for probate of Will and for grant of Letter of
Administration in their favour in connection with Registered Will
dated 03.02.2005 testated by Most. Pan Kuar Devi.

Testatrix, Pan Kuar Devi is the widow of late Ram
Naresh Singh, both of them died issueless, Ram Naresh Singh had
four brothers, namely, Late Ram Narersh Singh, Suresh Singh,
Kameshwar Singh and Jageshwar Singh. Kameshwar Singh had no



son, gave his property to the sons of Jageshwar Singh namely, Sri Sanjay Singh. Vinay Singh and Vijay Singh. As Pan Kuar Devi had no first class heir, so, Suresh Singh and his sons became the near heir of her husband including Pan Kuar Devi. Pan Kuar Devi testated the Registered Will dated 03.02.2005 in presence of two witnesses, namely, Suresh Singh, son of late Bodha Singh as well as Jhunnu Kumar, son of Chandra Shekhar Singh who is the attesting witness, has proved the thumb impression of Pan Kuar Devi, embossed on each page of Registered Will.

The statement has been mentioned in the petition that she was in good mental and physical condition. She after understanding the contents of the Will, with full understanding and conscience, without any coercion or under influence of pressure or any inducement of any form by any person, testated the Registered Will on 03.02.2005 in presence of Jhunnu Kumar and Suresh Singh. Three witness have been examined by the applicants to show the registered document is last will of testatrix.

Arbind Kumar, one of the applicants, witness no.1, filed an affidavit as examination-in-chief, has appeared before the Court, has stated that widow Pan Kuar Devi was his cousin mother, she executed the Registered Will in his favour as well as in favour of Anil Kumar Singh on 03.02.2005. Pan Kuar Devi read the contents of the Will and executed the same before the Registrar



of Registry Office, Danapur. Pan Kuar Devi died in the year 2005, after death, both the applicants came in possession of the property in terms of the Will.

Witness No.2 Jhunnu Kumar, filed his affidavit as examination-in-chief, has been examined as witness no. 2 where he has stated that the Will was drafted before him, he read the contents of the aforesaid draft of the Will, Pan Kuar Devi was her aunt, he had gone along with her aunt to the Registry Office, Danapur, the aforesaid Will was read over to Pan Kuar Devi, having understood the same, she voluntarily put her thumb impression in his presence and presence of Suresh Singh. He has identified the thumb impression of Pan Kuar Devi and he has also identified his signature which was marked as Exhibit 1. Each page of the Will bears the thumb impression of Pan Kuar Devi having been marked as Exhibit 1/1 to 1/8.

Suresh Singh has filed an affidavit as examination-in-chief, appeared before the Court as witness no.3. In his deposition, he has stated that at the time of execution of Will, she was in a sound state of mental and physical health, after understanding the contents of will, in his presence and presence of Jhunnu Kumar, who is the attesting witness no.1 of the Registered Will dated 03.02.2005, executed the same. He has further stated that every pages of the will bears the thumb impression of Pan Kuar Devi



which he has recognized and stated that she put her impression in his presence and also requested him to sign as witness in presence of another attesting witness Jhunnu Kumar and, on the request of the testator, he and Jhunnu Kumar put signature in her presence and in presence of Jhunnu Kumar. He has proved the will which has been marked as Exhibit-2.

From the aforesaid fact, it appears that at the time of execution of the Registered Will, Pan Kuar Devi was in a good state of physical and mental health, the contents of the Will was read over to her and, after understanding the contents thereof, in presence of Suresh Singh and Jhunnu Kumar, she put her thumb impression and, on her request, both of them became the attesting witness and put their respective signature on the pages of the Registered Will. The Will has been drafted by one Reyajuddin of Sub-Registrar, Registry Office, Danapur, Patna.

In view of the aforesaid discussion, I am of the view that this is the last Will of Pan Kuar Devi who testated the Will without any fear, undue influence, coercion in any manner but, out of love and sweet will testated the Will. At the time of execution of the Will, she was in a good state of physical and mental health. This Court holds that the applicants have proved that testamentation of the Will is proper and the Will is probated accordingly.



Accordingly, this application is allowed. Let the Letters of Administration to Will dated 03.02.2005 be issued in favour of two applicants of this case with a copy of Will annexed thereof, which shall have effect throughout the territory of India.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.12.2018
Transmission Date	

