

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Test Case No.6 of 2015**

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In The Goods of Late Smt. Kamala Devi, wife of Sri Ravindra Prasad Singh, resident of Village & P.O.- Baikunthpur, P.S.-Rajapakar, District- Vaishali, Hajipur.

AND

In the matter of an application filed under Section 273 and 276 of the Indian Succession Act for grant of letter of administration of the Registered Will dated 05.06.2007

AND

In the matter of an application filed by  
(i) Smt. Dharamsheela, wife of Dr. Prem Kumar  
(ii) Smt. Nutan Devi, wife of Sri Binay Kumar

Both residents of village & P.O.-Baikunthpur, P.S.-Rajapakar, District- Vaishali, Hajipur.

..... **Applicants**

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**Appearance :**

For the Petitioner/s : Mr. Laxmi Narayan Das, Advocate

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**

**ORAL JUDGMENT**

**Date : 11-01-2019**

1. Heard learned counsel for the applicants.
2. This application has been filed for grant of probate of registered Will dated 05.06.2007 executed by late Smt. Kamala Devi, in favour of two applicants, namely, Smt. Dharamsheela, wife of Dr. Prem Kumar and Smt. Nutan Devi, wife of Sri Binay Kumar. In the application, it has been stated that late Smt. Kamala Devi, executed the registered Will dated



05.06.2007 voluntarily in good physical health and sound state of mind, after understanding the contents of the Will, without any undue influence or coercion of anybody, in presence of two attesting witnesses, namely, (i) Brajesh Kumar, son of late Awdhesh Prasad Sharma, resident of Mauza-Tarwan, P.S.-Naubatpur, District- Patna and (ii) Shiv Nath Prasad Singh, son of Sri Nagendra Singh, resident of Mauza-Gomati, P.S.-Rajapakar, District- Vaishali. The said testatrix late Smt. Kamala Devi was residing permanently in the village and P.O.-Baikunthpur, P.S.-Rajapakar, District- Vaishali, Hajipur, and died at her residence on 17.01.2014 at 4:00 pm. and the Will dated 05.06.2007 is the last Will of the testatrix. Late Smt. Kamala Devi died leaving behind two sons, namely, Prem Kumar and Binay Kumar and two daughters, namely, Smt. Prabha Devi and Smt. Krishna Kumar and one daughter has already left for heavenly abode. The property covered under the Will is a self acquired property of the testatrix and on that authority she bequeath the property of her own through registered Will in favour of two daughter-in-laws.

3. In support of the case, three witnesses have been examined, namely, Brajesh Kumar, witness no.1, Shiv Nath Prasad Singh, witness no.2 and Nutan Devi, witness no.3.



Brajesh Kumar has categorically stated that Smt. Kamala Devi, was known to him and she has executed the registered Will dated 05.06.2007 in the Registrar office, Hajipur. The will was prepared by Suresh Chandra Soman, advocate, and he has put his signature after preparing the draft. He has proved the signature of Suresh Chandra Soman, marked as Exhibit-1. The contents of the Will read over to Smt. Kamal Devi, while understanding the contents of the Will, Smt. Kamala Devi put her signature in every page of the Will in presence of this witness as well as in presence of Shiv Nath Prasad Singh. After that Smt. Kamala Devi requested this witness as well as Shiv Nath Prasad Singh to put their respective signatures as witnesses and on her request, this witness has put his signature in the third page of the Will in presence of Smt. Kamala Devi and in presence of Shiv Nath Prasad Singh. Whereafter, she requested to Shiv Nath Prasad Singh to put his signature on the Will, accordingly, Shiv Nath Prasad Singh also put his signature in presence of this witness as well as in presence of Smt. Kamala Devi. This witness has identified the signature of Shiv Nath Prasad Singh as well as his signature on the Will. The Will has been marked as Exhibit-2, she executed the Will voluntarily without any influence or pressure and one Dhanjay Kumar has



identified the signature of Smt. Kamala Devi in the registry office before the Registrar and Dhanjay Kumar has put his signature as witness, was marked as Exhibit-3. It has further been stated that Smt. Kamala Devi, appeared in the registry office voluntarily for getting the Will registered and Smt. Kamala Devi died on 07.01.2014.

4. Shiv Nath Prasad Singh, witness no.2, in his evidence has stated that Smt. Kamala Devi was known to him, she has executed the Will on 05.06.2007, he has recognized the Will as Exhibit-2. This witness has stated that Smt. Kamala Devi, executed the Will in his presence on 05.06.2007 in the house. After his arrival Brajesh Kumar also reached there. The Will was prepared by Suresh Chandra Soman, advocate, handed over to Smt. Kamala Devi in presence of this witness and in presence of Brajesh Kumar, which was read over, understanding the contents of the Will, she put her signature on each and every page of the Will. This witness has identified the signatures of Smt. Kamala Devi, on each page as Exhibits – 4 to 4/4. Smt. Kamala Devi, she put her signature in presence of suresh Chandra Soman and this witness and on request of Smt. Kamala Devi, in her presence this witness also put his signature on the Will, marked as Exhibit-5. On the request of Smt. Kamala Devi,



Brajesh Kumar put his signature in presence of this witness and this witness has identified the signature of Brajesh Kumar as Exhibit-6. Dhanjay Kumar was also present at the time of execution of the Will, he accordingly, put his signature and same was marked as Exhibit-3. After that all the persons have gone to the registry office where Smt. Kamala Devi had appeared and completed rest formalities.

5. Nutan Devi, applicant no.2, one of the beneficiaries, has appeared as witness no.3 having stated that the Will was executed in presence of Brajesh Kumar and Shiv Nath Prasad Singh as attesting witnesses and recognized the signature of Smt. Kamala Devi on each and every page and also recognized the signature of attesting witnesses. Further stated that Smt. Kamala Devi executed the Will in full conscious state of mind, at that time she was capable to understand every aspects of the matter, she executed the Will of her own without any coercion and pressure but out of love and affection for two applicants and she died on 17.1.2014. Applicant no.1, Smt. Dharmsheela Devi, is the Jethani of this witness. Further stated that all the details as well as correct valuation of the property have been mentioned in the affidavit. All the near relatives have been served upon the notice through special citation and general



citation, were also published through two newspapers and special citation registered cover were received by near relatives, but none of them have raised any objection opposing the grant of probate.

6. In view of the aforesaid, both the attesting witnesses have proved the Will before this Court. All witnesses in categorical term have stated that at the time of execution of Will late Smt. Kamala Devi was in a good physical and mental health and she voluntarily appeared before the registry office and completed all the formalities and her signature has been identified by one Dhanjay Kumar.

7. On analysis of the evidence which have been deposed by the witnesses, it is very much clear that late Smt. Kamala Devi, in well state of conscious mind, out of love and affection without any coercion and pressure, fully understanding the contents of the Will, has put the signature on each and every page to the Will and on her request both the attesting witnesses put their respective signatures in the body of the Will which has been proved by the witnesses as discussed herein-above.

8. Accordingly, this application is allowed. Let the Letter of Administration to Will/grant of probate dated 05.06.2007 be issued in favour of two applicants of this case



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

(Shivaji Pandey, J)

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