

IN THE HIGH COURT OF JUDICATURE AT PATNA
TEST CASE No.11 of 2014

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In the Goods of Late Sandhaya Devi, W/o Late Padmanand Singh, resident of Village- Sardiha, P.O. Sardiha, P.S. Simri Bakhtiyarpur, District- Saharsa (Bihar)

AND

In the matter of an application filed u/s 276 r/w 300 of Indian Succession Act for grant of Letters of Administration of Registered Will dated 28.05.2004 executed by Testatrix Late Sandhaya Devi

AND

In the matter of application filed by Sri Neeraj Kumar, Son of Sri Amrendra Kumar Singh, resident of Plot No. 8/68, Budha Colony, P.O. Kidwaipuri, P.S. Budha Colony, District- Patna

... .. Applicant

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Appearance :

For the Applicant/s : Mr. Ashok Kumar, Advocate.

For the Respondent/s:

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 10-01-2020

This petition has been filed for grant of letters of administration in respect of the Will executed and registered on 28.05.2004 by Sandhaya Devi in favour of the applicant, who is the son of the daughter of the testatrix. The testatrix died on 14.07.2014 after executing her aforesaid registered will dated 28.05.2004 appointing the applicant as the sole beneficiary of her estate comprised of a single storied house standing over 4579 sq. ft. situated at Mauza- Dujara (Budha Colony) Pragana Azimabad, Survey Thana- Phulwari, P.S. Budha Colony, District- Patna, Tauzi No. 5225, Khta No. 83, Plot no. 437/Society plot no.



B-68, Ward No. 33, Sheet no. 4, Circle No. 246. According to the petition, the following persons are the near relatives of the testatrix --

(i) Shailendra Kumar Singh son of late Sandhaya Devi
& Late Padmanand Singh ----- Son

(ii) Satyendra Kumar Singh son of Late Sandhaya Devi
& Late Padmanand Singh ----- Son

Both resident of village + P.O. Sardiha, P.S. Simri
Bakhtiyarpur, District Saharsa (Bihar)

(iii) Anjana Singh D/o Late Lal Mani Singh & Sri
Amrendran Kumar Singh, W/o Mr. Brajesh Kumar
Singh, resident of Nayabazar P.S. + P.S. & District-
Saharsa .

2. Pursuant to orders of this Court, general citation has been published in two daily newspapers namely, The Times of India (in English) on 30.04.2015 and Prabhat Khabar (In Hindi) on 28.04.2015 respectively and special citation also served upon three near relatives of the testatrix, all of whom have appeared and filed their respective affidavits stating that they have no-objection if Letters of Administration with respect to the estate of testatrix Sandhaya Devi is granted in favour of applicant Neeraj Kumar S/o Sri Amrendra Kumar Singh.

3. It is therefore submitted on behalf of the applicant that his claim for grant of Letters of Administration in his favour stands uncontested.

4. In support of his case, the applicant has examined three witnesses, namely Sri Alok Kumar (A.W. 1), Rakesh Kumar (A.W. 2), both attesting witnesses of the registered Will dated 28.05.2004 and Sri Neeraj Kumar (A.W. 3), the applicant himself.



5. A.W. 1 Alok Kumar, during his examination before the Court, stated that he had accompanied the testatrix, Sandhaya Devi, to the Registry Office, Patna on 28.05.2004 along with Rakesh Kumar, Rajiv Kumar, Neeraj Kumar and Jaikant Prasad, Advocate. After preparing a draft of the Will as per wishes of the testatrix, Sri Jaikant Prasad, Advocate explained the contents of the Will to the testatrix who gave her consent to type the Will. Sri Bijay Prasad, typist, typed the Will as per her instruction. After the Will was typed, it was again read over and explained to the testatrix by Sri Jaikant Prasad, Advocate. After being satisfied with the contents of Will, the testatrix, Sandhaya Devi, signed each page of the Will and also put impressions of all fingers and thumb of her left hand on the first and last pages of the Will, which were identified by Sri Jaikant Prasad, Advocate. Thereafter, on the request of the testatrix, he along with Rakesh Kumar signed on the Will as attesting witnesses. He identified the entire Will along with his signature thereon. The signature of Alok Kumar was marked as Ext-1 and the entire original Will was marked as Ext.2.

6. He further stated that the testatrix was in sound state of body and mind at the time of execution of Will and she executed the Will on her own free will without any external pressure or coercion.

7. He also stated that on 28.05.2004 itself, the Will was registered in the Registry Office, Patna, where the testatrix also admitted the execution of the Will before the Registrar. The testatrix was identified by Sri Amlesh Kumar before the Registrar, Patna.

8. A.W. 2 Rakesh Kumar, during his examination, fully supported the case of the applicant and stated that the testatrix,



Sandhaya Devi, properly executed the Will on 28.05.2004 in his presence as well as in the presence of witness Sri Alok Kumar without any external pressure or coercion. The Will was registered on the same day before the Registrar, Registry Office, Patna. He also identified his signature on the 3rd page of the Will, which was marked as Ext. 3.

9. A.W. 3 Neerjaj Kumar, during his examination stated that the testatrix, Sandhaya Devi, was his Nani (maternal grand mother) and he is the sole beneficiary under the Will dated 28.05.2004 and as such he is the applicant of the Test Case. His mother Lalmani Devi pre-deceased his Nani (maternal grand mother). He further stated that he is in possession of the suit property since the demise of the testatrix. He also stated that all the three near relatives of the testatrix have filed their affidavits of no-objection for grant of Letters of Administration in his favour with respect to the Will dated 28.05.2004 of the testatrix.

10. Having considered the depositions of the three witnesses examined on behalf of the applicant and going through the original registered Will dated 28.05.2004 executed by the testatrix, Sandhaya Devi, as also the no-objection certificates in the form of separate affidavits filed by three near relatives, this Court is satisfied that the testatrix properly executed her Will dated 28.05.2004 in presence of two witnesses in terms of Section-63 of Indian Succession Act and Section-68 of Indian Evidence Act. This Court also holds that the Will dated 28.05.2004 is the last Will of the testatrix, Sandhaya Devi, as none has appeared to contest the case even after the publication of general citation in two daily newspapers, namely The Times of India and Prabhat Khabar.



11. Accordingly, this application is allowed. Let the Letters of Administration with respect to the Will dated 28.05.2004 executed by Late Sandhaya Devi be issued in favour of the applicant of this case with a copy of Will annexed thereto, which shall have effect throughout the territory of India.

(Vikash Jain, J)

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AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	18.01.2020
Transmission Date	N.A.

