

IN THE HIGH COURT OF JUDICATURE AT PATNA
TEST CASE No.6 of 2013

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In the matter of Goods of Late Sri Lalit Saran Singh, Son of Late Ramayan Singh, Resident of Village-Ajwan, P.S.-Naubatpur, District- Patna.

AND

In the matter of an application filed under Sections 273, 276 r/w 300 of the Indian Succession Act for grant of Letter of Administration of the registered Will dated 18.06.2005.

AND

In the matter of an application filed by

1. Smt. Shail Devi, Wife Of Rajeshwar Sharma Resident Of Taregna, P.S. Masaurhi, District Patna
2. Smt. Krishna Devi W/O Devendra Prasad Sharma Resident Of Village Sarasat, P.S. Naubatpur, District Patna In The Goods Of Late Lalit Saran Singh, Resident Of Village Ajwan, P.S. Naubatpur, District Patna

.....Applicants

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Appearance :

For the Petitioner/s	:	Mr. Avinash Chandra, Advocate
For the NR	:	Mr. Apurva Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 28-11-2024

Heard learned counsel for the applicants as well as learned counsel for the sole near relative and perused the record.

02. This application has been filed under Sections 273, 276 r/w 300 of the Indian Succession Act for grant of Letters of Administration of the Will dated 18.06.2005 executed by late Lalit Saran Singh, which was registered on 24.06.2005. The registered will has been executed in favour of the applicants, namely Smt. Shail Devi, wife of Rajeshwar Sharma



and Smt. Krishna Devi, wife of Devendra Prasad Sharma, respectively.

03. The applicants have named the sole near relative, Sonamati Devi, and arrayed her as NR of the testator. This Court vide order dated 29.10.2015 directed the applicants to take steps for publication of general citation in two local daily newspaper, namely, *Prabhat Khabar* (Hindi) and *Times of India* (English) and also for issuance of special citation to the sole near relative by both processes, i.e., under ordinary as well as speed post. Thereafter, affidavit filed on behalf of the applicants in support of publication of general citation in *Times of India* (English) and *Prabhat Khabar* (Hindi), both dated 25.07.2015, was accepted and was kept on record and special citation issued upon the sole near relative was declared to be validly served. The sole near relative, namely Sonamati Devi appeared through *Vakalatnama* in the test case. The aforesaid NR did not choose to file any caveat or objection to grant of letters of administration in favour the applicants. Moreover, the appeared Near Relative did not cross examine the witnesses produced on behalf of the applicant though she was represented through learned counsel.

04. In support of the case, altogether four witnesses, including three attesting witness of the Will, have been



examined on behalf of the applicants, namely (i) Sujit Kumar Bharadwaj (AW-1), (ii) Siya Ram Sharma (AW-2), (iii) Sonamati Devi (AW-3) and (iv) the applicant, Krishna Devi, herself examined as AW-4.

AW-1, Sujit Kumar Bhardwaj, has been examined on 11.10.2018. He has stated in his evidence that the contents of examination-in-chief filed by him on affidavit are true and correct. This witness, in his examination-in-chief, stated that he knew the testator since childhood. He further stated that the testator informed him about the execution of Will and testament and asked him to be one of the attesting witnesses on the Will. He further stated that the testator signed the typed copy of Will in his presence on 18.06.2005 and on the request of testator, another witness, namely Siyaram Sharma also put his signature as attesting witness on the Will. The witness also stated that he along with testator, Lalit Saran Singh, and Siyaram Sharma appeared before the Registrar at his office at Bikram, Patna on 24.06.2005 where the Will was registered. This witness identified the original will dated 18.06.2005 executed by the testator, namely, late Lalit Saran Singh and also identified the signature of the testator over the Will, which have been marked as Exhibit-1 and Exhibit-1/A, respectively. The witness also identified his own signature over the Will, which has been



marked as Exhibit-1/B. This witness also stated that the testator died on 06.08.2006 at his residence at Village-Ajawan, P.S. Naubatpur in the District-Patna. This witness further stated that while executing the Will, the testator was in sound mental and physical condition. Upon Court's question, he clearly stated the testator, Lalit Saran Singh, was knowing the contents of Will and he was present at the time of presentation of the Will for registration.

05. AW-2, Siyaram Sharma, has been examined on 11.10.2018. He has stated in his evidence that the contents of examination-in-chief filed by him on affidavit are true and correct. This witness, in his examination-in-chief stated that he knew the testator since childhood. He further stated that the testator informed him about the execution of Will and testament and asked him and Sujit Kumar Bhardwaj (AW-1) to become the attesting witnesses on the Will. He further stated that in his presence, the testator signed on the typed copy of Will on 18.06.2005 and on the request of testator, he and Sujit Kumar Bhardwaj also put their respective signatures as attesting witnesses on the Will. The witness also stated that he along with testator, Lalit Saran Singh, and Sujit Kumar Bhardwaj appeared before the Registrar at his office at Bikram, Patna on 24.06.2005 where the Will was registered. This witness identified the



original Will dated 18.06.2005 executed by the testator, namely, late Lalit Saran Singh (Exhibit-1) and the signature of Sujit Kumar Bhardwaj (AW-1) (Exhibit-1/B). He further identified his signature over the Will, which has been marked as Exhibit-1/C. The witness further stated that the testator was married in 1955 and his wife is alive and the testator died on 06.08.2006 issueless at his residence at Village-Ajawan, P.S. Naubatpur in the District-Patna. This witness further categorically stated that at the time of execution of the Will, the testator was mentally and physically fit.

06. AW-3, Sonamati Devi, who is the widow of the testator, has been examined on 13.12.2018. She has stated in his evidence that the contents of examination-in-chief filed by her on affidavit are true and correct. She, in her examination-in-chief, stated that the testator was her husband and has executed the Will out of his own free will and the witness admitted that the body of Will bears her signature as attesting witness. She identified her signature over the Will, which has been marked as Exhibit-1/D. She further stated that the testator (her husband) died on 06.08.2026 at his permanent residence at Village-Ajawan, P.S.-Naubatpur, District-Patna. She further stated that her husband had got prepared the Will and on his saying the attesting witnesses, namely Sujit Kumar Bhardwaj (AW-1) and Siyaram



Sharma (AW-2) made their respective signatures over the Will and the said Will was registered. She further stated that because of being issue-less, her husband executed the Will in favour of his sisters (applicants) as there was good relationship between the testator and his sisters. She clearly stated that while executing the Will, his husband (testator) was in sound mental and physical condition and the testator executed the Will without any coercion and pressure. Lastly, this witness categorically stated that she has got no objection to the Will executed by her husband in favour of the applicants.

07. AW-4, namely Krishna Devi is the applicant no. 2 herself. The applicant no. 2 has been examined on 13.12.2018. In her examination-in-chief, this witness stated that she along with her sister filed the instant application and she is the applicant no. 2. She further clearly stated that at the time of execution of the Will, his brother, Lalit Sharan Singh, was healthy and was having a sound state of mind. She further stated that the testator executed the Will out of his own free will and volition. She also stated in his evidence that the contents of examination-in-chief filed by her on affidavit are true and correct. She also stated that there are good relationship between her and the testator's wife, who regularly comes to her house



and she takes complete care of her. The witness further stated that his brother, late Lalit Sharan Singh, executed the Will on 18.06.2005 bequeathing his property covered under the Will equally to his sisters (applicants).

08. It has been submitted on behalf of the applicants that late Lalit Saran Singh executed the Will dated 18.06.2005 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 three attesting witnesses, namely, (i) Sujeet Kumar Bhardwaj, Son of late Ramanuj Sharma, Resident of Village-Ajawan, P.S.-Naubatpur, District-Patna, (ii) Siyaram Sharma, Son of late Nand Lal Singh, Resident of Village-Motipur, P.S.-Naubatpur, District-Patna and (iii) Sonamati Devi, widow of late Lalit Saran Singh, Resident of Village Ajwan, P.S. Naubatpur, District Patna (wife of the testator). The said testator, late Lalit Saran Singh, was a Hindu governed by the Mitakshara School of Hindu Law and was permanently residing at Village Village Ajwan, P.S. Naubatpur, District Patna. The testator, Lalit Saran Singh, died on 06.08.2006 at his permanent residence at Village Ajwan, P.S. Naubatpur, District Patna and the registered Will dated 18.06.2005 is the first and last Will and testament of the testator. The testator was the own brother of the applicants and he died



issue-less leaving behind his widow Sonamati Devi. The property covered under the Will situated in Village-Ajawan, Thana-Naubatpur, District-Patna, area approximately 385 $\frac{1}{4}$ decimals as mentioned in the plaint was the ancestral property of the testator and his name was duly mutated in the revenue records of State of Bihar and on that authority, he bequeathed the property of his own through registered Will in favour of his sisters (applicants). The applicants have been named as the beneficiaries/legatees of the registered will dated 18.06.2005 executed by the testator and after death of the testator, they came in peaceful possession of the property bequeathed under the Will. The amount of asset, which are likely to come in the hands of the applicants is approximately Rs. 20,00,000/- (twenty lacs rupees), which is mentioned in the plaint. It has further been submitted that the aforesaid attesting witnesses of the Will have verified the instant application for grant of Letters of Administration under Section 281 of the Indian Succession Act, which are annexed with the petition. It has also been submitted that the applicants have not moved any application earlier to this Court or any other court for grant of probate or letters of administration of the registered Will dated 18.06.2005.

09. Learned counsel for the applicants further submits



that the sole near relative of the testator appeared and has got no objection for grant of Letters of Administration of this registered Will in favour of the applicants. In the present case, the Will has already been proved according to provisions of Indian Evidence Act by the witnesses for the applicants including the three attesting witnesses of the Will and the Will has been correctly proved. It has also been proved by the witnesses that the testator was in sound state of body and mind at the time of execution of registered Will on 18.06.2005. There is no scope of any suspicion nor anybody has challenged the Will in question.

10. Having regard to the aforesaid facts and circumstances and considering the submission made by the learned counsel for the applicants, I am of the view that the witnesses for the applicants including the attesting witnesses have proved the Will. All witnesses in categorical terms have stated that at the time of execution of Will, Late Lalit Saran Singh was in a good physical and mental health and he voluntarily executed the Will in favour of the legatees, Smt. Shail Devi (applicant no.1) and Smt. Krishna Devi (applicant no.2), completing the formalities and his signature has also been identified by the witnesses.

11. On analysis of the evidence(s) which have been deposed by the witnesses, it is very much clear that late Lalit



Saran Singh, in good state of conscious mind, without any coercion and pressure, fully understanding the contents of the Will, had put his signature on the Will and on his request the attesting witnesses put their respective signatures in the body of the Will and subsequently, the Will dated 18.06.2005 got registered on 24.06.2005, which has been proved by the witnesses as discussed herein-above. Hence, I am of the considered view that the testator, Late Lalit Saran Singh, executed the Will in favour of legatees/beneficiaries, Smt. Shail Devi and Smt. Krishna Devi (applicants) in a proper state of mind with proper understanding of the contents of the Will.

12. Accordingly, this application is allowed. Let the Letters of Administration of the Will dated 18.06.2005 be issued in favour of applicants of this case with a copy of the Will annexed thereof, which shall have effect throughout the territory of India.

(Arun Kumar Jha, J)

Ashish/-

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

