

IN THE HIGH COURT OF JUDICATURE AT PATNA
TEST CASE No.6 of 2019

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In the Goods of Late Kusum Lata Verma Wife of late Shambhu Nath Verma
Resident of village - Khudwan, P.s.- Obra, P.S.- Khudwan, Distt- Gaya having
permanent place of abode at Mohalla- Barmasia, District- Baidyanathdham
Deoghar, State- Jharkhand.

AND

In the matter of an application filed under Section 276 read with 300 of the
Indian Succession Act, 1925 for grant of probate to the Will dated 25.03.2003
executed by late Kusum Lata Verma.

AND

In the matter of Sri Raj Rajesh, son of late Dinesh Chandra Sinha, Plot
No.B/9 at Kanerbagh in Block Part of Section "D" Thpe-B, Friends Housing
Co-operative Colony, P.O.- Lohia nagar, P.S. Kankarbagh, District- Patna.

.....Applicant

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Appearance :

For the Petitioner/s : Mr. Praveen Kumar Sinha, Advocate
For the Respondent/s : Mr. Bal Bhushan Choudhary, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT
Date : 01-03-2024

1. Heard learned counsel for the applicant.
2. The present application has been filed for
grant of Probate of unregistered Will dated 25.03.2003 in favour
of the applicant.
3. The property mentioned in the Will has been
claimed to be a self acquired property of the testatrix namely,
late Kusum Lata Verma. The testatrix died on 12.04.2015 at
Deoghar, Mohalla-Barmasia, District-Baidyanathdham, Deoghar
(Jharkhand) leaving behind three sons namely, Kamal Kishore
Verma, Pankaj Kishore Verma and Niraj Kishore Verma and two
daughters namely, Poonam Sahay and Shobha Ambastha as well



as two near relatives namely, Jayanti Sinha and Smt. Madhavi Sinha. The details of all the persons have been mentioned in paragraph no.13 of this application. The testatrix namely, late Kusum Lata Verma was own aunt (*phua*) of the applicant and the Will in question is the last Will executed by her on 25.03.2003 in good health and sound mind without any undue influence and in presence of two attesting witnesses, namely, Himanshu Shekhar, son of late J.P. Singh, A-404, Nandan Tower Colony More, P.O.- Lohiyanagar, P.S.- Kankarbagh, District- Patna and Mukesh Kumar, son of Sri Maheshwari Prasad, C/A 06, Bimla Bhawan, P.C. Colony, Kankarbagh, P.O.- Lohiyanagar, P.S.- Kankarbagh, District- Patna.

4. After registration of the case, this Court vide order dated 06.03.2020 directed for publication of General Citation in two daily newspapers namely, Prabhat Khabar (Hindi) in Deoghar edition, as well as in Times of India (English) in Bhagalpur edition in absence of any daily English newspaper having Deoghar edition as stated by the applicant. The order dated 28.11.2022 reflects that “No Objection” from and on behalf of all the Near Relatives was filed by filing separate affidavits. Accordingly, the attesting witnesses were examined.



5. Attesting Witness no.1, namely, Himanshu Shekhar, in his examination-in-chief has stated that he is one of the Attesting Witness to the Will in question. The testatrix late Kusum Lata Verma was the *Phua* of the present applicant. The applicant is the son of late Dinesh Chandra Sinha, who is the full brother of testatrix late Kusum Lata Verma, wife of late Shambhu Nath Verma. This witness further deposed that late Kusum Lata Verma had voluntarily executed an unregistered Will dated 25.03.2003 in favour of Raj Rajesh i.e. the present applicant. The applicant is his friend and they used to meet frequently. This witness further deposed that on 25.03.2003 testatrix Kusum Lata Verma called him at the residence of the applicant and said that she wants to execute a Will in his presence. When this witness reached there, Mukesh Kumar, Dr. Rajiv Ranjan and Dr. (Prof.) Gopal Krishna Sinha were also present there. In their presence, she got a typed Will and read its contents and understood the same and thereafter, late Kusum Lata Verma put her signature on the Will. This witness further deposed that on the request of late Kusum Lata Verma, he put his signature as an attesting witness in presence of Sri Mukesh Kumar as well as in presence of late Kusum Lata Verma. This witness further stated that on the request of late Kusum Lata



Verma, Sri Mukesh Kumar also put his signature on the Will as another Attesting witness. This witness further deposed that at the time of execution of the Will, the testatrix was in sound mind and good health and she was also capable of understanding everything. She had executed the aforesaid Will out of her own free will and without any pressure from anyone. During examination, this witness identified the Will and also his own signature on all the pages of the Will and also identified the signature of the testatrix late Kusum Lata Verma on all the pages of the Will.

6. Sri Mukesh Kumar has been examined as Attesting Witness no.-2, who has stated that late Kusum Lata Verma was known to him. On 25.03.2003 this witness was called by late Kusum Lata Verma at the residence of the applicant and she told him that she wants to execute a Will in his presence. When this witness reached there, Himanshu Shekar, Dr. Rajiv Ranjan and Dr. (Prof.) Gopal Krishna Sinha were also present there. Late Kusum Lata Verma brought a computerized typed Will and read the contents and understood the same. Thereafter, she put her signature on the Will in his presence and in presence of the above-named persons. Thereafter, on the request of testatrix, late Kusum Lata Verma,



this witness has put his signature as one of the attesting witness on the Will. This witness identified the Will and also his own signature over all the pages of the Will and also identified the signature of testatrix late Kusum Lata Verma on all the pages of the Will. This witness also identified the signature of other attesting witnesses. This witness further deposed that he knew the testatrix late Kusum Lata Verma for a long time as he happens to be her Financial Advisor. At the time of execution of Will, late Kusum Lata Verma was mentally alert and physically fit and there was no external pressure or coercion on the testatrix to execute the Will.

7. The applicant, namely, Raj Rajesh, has examined himself as Attesting Witness No.3, who in his deposition has stated that late Kusum Lata Verma was own sister of his father. At the time of execution of the said Will, the testatrix Kusum Lata Verma had been residing with her full brother-Dinesh Chandra Sinha i.e. the father of the applicant in rented Flat No.229, Kankarbagh, P.O.- Lohiya Nagar, P.S.- Kankarbagh, Patna. All the children of late Kusum Lata Verma were living outside Bihar, so whenever she came to Patna she used to stay at the residence of her full brother. This witness further deposed that he took care of her during treatment at



various places and late Kusum Lata Verma had voluntarily executed the Will in his favour and that is why all her children had given “No Objection” to their mother’s Will. This witness has also deposed that the testatrix Kusum Lata Verma had voluntarily executed her last Will on 25.03.2003 without facing any type of pressure or coercion. This witness further deposed that at the time of execution of the Will, the testatrix was in good health and sound mind and she has executed the Will after fully understanding the contents of the Will without any undue influence from anyone. She further deposed that the testatrix late Kusum Lata Verma died at the age of 83 years at Deoghar (Jharkhand).

8. In this case, all the near relatives have filed their “No Objection” for grant of Probate of unregistered Will. The Will in question remained in possession of the testatrix namely, late Kusum Lata Verma till her lifetime. After her death, the Will came in possession of the applicant. The property, in question, was self acquired property of the testatrix late Kusum Lata Verma. She has the right to bequeath the property as per her desire. The entire original Will was marked as Exhibit-1. The signature of testatrix at every pages of Will was marked as Exhibit-2 (series). The signature of Attesting Witness Himanshu



Shekhar at every page of the Will was marked as Exhibit-3 (series) and the signature of the Attesting Witness Mukesh Kumar at every page of the Will was marked as Exhibit-4 (series).

9. On perusal of the record, it appears that General Citations in two daily newspapers one in Hindi and another in English were published. No one has come forward to raise objection to grant of Probate in favour of the applicant. Three witnesses have specifically stated that late Kusum Lata Verma at the time of execution of the Will was in a good health and was of sound mind and she has executed the Will without any pressure and influence from anyone rather out of love and affection she has voluntarily executed the Will in favour of the applicant. It also appears that the property mentioned in the Will is self acquired property of late Kusum Lata Verma and she has every right to bequeath the property as per her own desire in favour of this applicant and in pursuance thereof, late Kusum Lata Verma has executed the Will on 25.03.2003 in favour of the applicant.

10. On analysis of the evidence which have been given by the witnesses, it is very much clear that late Kusum Lata Verma out of love and affection without any coercion and



pressure and after fully understanding the contents of the Will has put the signature on each and every page to the Will and on her request the attesting witnesses have also put their respective signatures in the body of the Will, which has been proved by the witnesses as discussed herein-above.

11. In view of the aforesaid discussions, this application is allowed. Let the probate of Will dated 25.03.2003 be issued in favour of applicant of this case with a copy of the Will annexed thereof, which shall have effect throughout the territory of India.

(Sandeep Kumar, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	01.03.2024
Transmission Date	

