

IN THE HIGH COURT OF JUDICATURE AT PATNA
TEST CASE No.18 of 2018

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In The Goods Of Late Ramcharitra Rai S/o Rampati Rai, R/o-Vill.- Sirpatpur,
P.O.- Bairiya, P.S.- Gopalpur, Distt.- Patna-7.

And

In the matter of an application filed by the applicant under Section 273 and
276 r/w Section 300 of the Indian Succession Act for grant of Letters of
Administration of the Will dated 15.01.1986

And

In the matter of an application filed by Manoj Prasad S/o Late Shibbalam Rai
R/o Vill.- Sirpatpur, P.O.- Bairiya, P.S.- Gopalpur, Distt.- Patna-7.

... .. **Applicant.**

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Appearance :

For the Petitioner/s	:	Mr. Naresh Prasad, Advocate Ms. Pushpa Kumari, Advocate
For the NRs	:	Mr. Mithilesh Kr. Arya, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 24-07-2025

Heard the learned counsel appearing on behalf of the
applicant as well as learned counsel representing the NRs and
perused the record.

02. This application has been filed under Sections 273
and 276 r/w Section 300 of the Indian Succession Act for grant of
Letters of Administration of the Will dated 15.01.1986 executed
by late Ramcharitra Rai. The Will has been executed in favour of
the applicant, namely Manoj Prasad, who is grandson of testator-
Ramcharitra Rai.

03. This Court vide order dated 07.11.2022 directed
the applicant to take steps for publication of general citation in



two local daily newspapers, namely '*The Times of India*' (English) and '*Dainik Bhaskar*' (Hindi) and the applicant was also directed to file requisites for issuance of special citation upon four near relatives of the Testator-late Ramcharitra Rai, by both modes, i.e., under registered cover with A/D as well as under ordinary process. Thereafter, affidavit filed on behalf of the applicant in support of publication of general citation in two daily newspapers, namely *Dainik Bhaskar* (Hindi), dated 16.12.2022 and *Times of India* (English), dated 17.12.2022, was accepted and was kept on record. All the four near relatives of the testator were declared served. Though all the near relatives appeared through *Vakalatnama* but they did not choose to file any caveat or objection to grant of letters of administration in favour the applicant. Moreover, the appeared Near Relatives did not cross examine the witnesses produced on behalf of the applicant though they were represented through their learned counsel.

04. In order to substantiate the claim made in the instant testamentary application, total two witnesses, including one attesting witness of the Will, have been examined on behalf of the applicant, namely (i) Shivaballam Rai (one of the attesting witnesses of the Will) and (ii) the applicant, Manoj Prasad (AW-2).



05. AW-1, Shivballam Rai, who is the attesting witness of the Will and son of the testator-Ramcharitra Rai, has been examined on 01.05.2025. He has stated in her 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 is the son of the testator, Ramcharitra Rai, but he could not say when the Will was executed. He further stated that he is illiterate. He further stated that the will relates to the land that was given to my son, Manoj Rai @ Manoj Prasad. Upon Court's query, the witness stated that he had put his thumb impression on the Will. He further stated that when the Will was executed, his father was not in good physical condition but his mental condition was good. This witness also stated that the Will was executed without any undue influence or coercion of anybody.

06. AW-2, Manoj Prasad, who is the applicant of the case as well as beneficiary of the Will, has been examined on 01.05.2025. He has stated in his evidence that the contents of examination-in-chief filed by him on affidavit are true and correct. He, in his examination-in-chief, stated that the testator-Ramcharitra Rai was his grandfather. He further stated that he has filed the case for grant of probate of Will executed by his grandfather. He further stated that his grandfather, Ramcharitra Rai died in the year 1986. He also stated that his father has a



brother, namely Rajballav Rai, who had two children, a son and a daughter, and his son pre-deceased him and the daughter got married. He further stated that at the time of death of his grandfather, he was 5-6 years old and last rites of his grandfather was performed by my father. This witness further stated that at the time of execution of the Will, the testator was mentally and physically fit and the Will was the last Will of the testator. This witness also identified the Will dated 15.01.1986 executed by the testator in his favour by which 1 *kattha* land was given to the applicant, which has been marked as Exhibit-1.

07. Learned counsel for the applicant submits that late Ramcharitra Rai executed the Will dated 15.01.1986 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) Sri Shivbalam Rai, S/o- Late Ramcharitra Rai, R/o-Sirpatpur, PO-Bairiya, P.S.-Gopalpur, District-Patna and (ii) Sato Devi W/o Shivbalam Rai, R/o-Village-Sirpatpur, PO-Bairiya, PS-Gopalpur, District-Patna. The said testator, late Ramcharitra Rai, was a Hindu governed by the Mitakshara School of Hindu Law and was permanently residing in District-Patna, State of Bihar, which is within the jurisdiction of this Court. The testator, Ramcharitra Rai, died on 14.02.1986 at about



07:48 AM at his village residence and the Will dated 15.01.1986 is the first and last Will and testament of the testator. The testator died living behind his heirs, namely Rajbalam Rai, Santosh Kumar, Punam Kumari and Anuj Rai. The property covered under the Will was owned by the testator, late Ramcharitra Rai and on that authority, the testator bequeathed his 1 *kattha* property through a Will in favour of his grandson, namely Manoj Prasad (applicant) who is the sole beneficiary of the aforesaid Will. Learned counsel further submits that the amount of asset, which are likely to come in the hands of the applicant is approximately Rs. 10,00,000/- (ten lacs only), which is mentioned in the petition. It has further been submitted that one of attesting witnesses of the Will, namely Shivballam Rai has verified the instant application for grant of Letters of Administration under Section 281 of the Indian Succession Act, which is annexed with the petition.

08. Learned counsel for the applicant further submits that in this case general citations were also published in two daily local newspaper and all the near relatives of the testator were represented through their learned counsel and they did not oppose the grant of letters of administration in favour of the applicant. Learned counsel further submits that another attesting witness of the Will, namely Saato Devi is indisposed and bed



ridden and could not come before this Court to depose and for this reason, Saato Devi could not produced before this Court for examination. However, her examination-in-chief on affidavit has been filed in which she supported the case of the applicant. Thus, in the present case, the Will has been proved according to provisions of Indian Evidence Act by the witnesses for the applicant including one of the attesting witnesses of the Will. 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 Will on 15.01.1986. There is no scope of any suspicion nor anybody has challenged the Will in question.

09. Having regard to the aforesaid facts and circumstances and considering the submission made by the learned counsel for the applicant, I am of the view that the witnesses for the applicant including one attesting witness have proved the Will. Both witnesses in categorical terms have stated that at the time of execution of Will, late Ramcharitra Rai, was in a good mental health and he voluntarily executed the Will in favour of the legatee/applicant, completing the formalities and his thumb impression has also been identified by the witnesses.

10. On analysis of the evidence(s) which have been deposed by the witnesses, it is very much clear that late Ramcharitra Rai, in good state of conscious mind, without any



coercion and pressure, fully understanding the contents of the Will, had put his thumb impression on last page of the Will and the attesting witnesses of the Will also put their respective thumb impressions in the body of the Will dated 15.01.1986, which has been proved by the witnesses as discussed herein-above. Hence, I am of the considered view that the testator, late Ramcharitra Rai, executed the Will in favour of applicant in a proper state of mind with proper understanding of the contents of the Will.

11. Accordingly, this application is allowed. Let the Letters of Administration of the Will dated 15.01.1986 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.

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.07.2025
Transmission Date	NA

