

IN THE HIGH COURT OF JUDICATURE AT PATNA
TEST CASE No.16 of 2018

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In the Goods of Late Jagdish Singh, son of Late Deonandan Singh,
Resident of Village-Gabaspur, P.S.-Fathuha, District-Patna.

And

In the matter of an application under Section 273 and 276 r/w 300 of the
Indian Succession Act, 1925 for grant Letters of Administration of the Will
dated 14.02.1973.

And

In the matter of an application filed by Nand Kumar Singh, son of Late
Devnandan Singh, Resident of Village-Gabaspur, P.S.-Fathuha, Post-Jatia,
District Patna.

... .. Applicant

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Appearance :

For the Petitioner/s : Mr. Naresh Prasad, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 01-05-2025

Heard learned counsel appearing on behalf of the
applicant 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 14.02.1973 executed
by late Jagdish Singh. The Will has been executed in favour of
the applicant, namely Nand Kumar Singh, who is younger
brother of the testator-Jagdish Singh.

03. This Court vide order dated 26.07.2019 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 two near relatives of the Testator-late Jagdish Singh, 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 24.08.2019 and *Times of India* (English), dated 09.12.2022, was accepted and was kept on record. Both the near relatives of the testator were declared served, but they did not appear before this Court to file any caveat or objection for grant of letters of administration in favour the applicant.

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) attesting witness of the Will, Chandra Kanti Devi (AW-1) and (ii) the applicant, Nand Kumar Singh (AW-2).

05. AW-1, Chandra Kanti Devi (wife of applicant), who is the attesting witness of the Will, has been examined on 25.07.2024. She has stated in her evidence that the contents of examination-in-chief filed by him on affidavit are true and correct. This witness, in her examination-in-chief, stated that the testator, Jagdish Singh, was her elder brother-in-law who died in



the year 1973. She further stated that testator-late Jagdish Singh executed the Will on 14.02.1973. She further deposed that at the time of preparation of Will, apart from her, Arjun Singh and Manti Devi were also present. Manti Devi is own sister of the applicant and Arjun Singh is an agnate. She further stated that the testator put his thumb impression on the Will in her presence and thereafter, she also put her signature on the Will. Arjun Singh and Manti Devi also put their respective signatures. She further stated that at the time of death, late Jagdish Singh was quite old and was aged about 75 to 80 years. She further stated while executing the Will, the testator was in sound mental and physical condition. She also stated that the testator executed the Will after fully understanding its contents and without any undue influence. This witness identified the Will dated 14.02.1973 executed by the testator, namely late Jagdish Singh, and on her identification, the entire Will has been marked as Exhibit-1. She further identified her signatures as identifier of LTI of testator as well as attesting witness of the Will, which have been marked as Exhibits-2 and 2/1, respectively.

06. AW-2, Nand Kumar Singh, who is the applicant of the case, has been examined on 25.07.2024. 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-Jagdish Singh was his elder brother, who was issue-less. He further stated that the testator executed the Will on 14.02.1973, bequeathing all his properties in his favour. He further stated that apart from him, the testator had also one sister, namely Manti Devi, who also put her signature on the aforesaid Will as an attesting witness. This witness further stated that his brother (testator) put his thumb impression on the Will which was also identified by his wife (AW-1). This witness further categorically 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 14.02.1973 executed by the testator, namely late Jagdish Singh, which has already been marked as Exhibit-1. He further identified the signatures of his wife (AW-1) over the Will as an identifier of LTI of testator and as an attesting witness of the Will, which have already been marked as Exhibits-2 and 2/1, respectively. This witness also identified the signatures of witnesses, Arjun Singh and Manti Devi and on his identification, the same have been marked as Exhibit-3 and 4, respectively. Upon Court's question, this witness stated that witnesses of the Will, namely Arjun Singh and Manti Devi, would not be able to come before the Court to depose in the matter as Arjun Singh has suffered paralytic attack and Manti Devi was quite old and she



was not able to move and she resides in Mughalsarai.

07. Learned counsel for the applicant submits that late Jagdish Singh executed the Will dated 14.02.1973 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) Sri Arjun Singh S/o Late Awadh Bihari Singh, Resident of Village-Sabalpur Chipura, PO-Chipura East P.S.-Gaurichak, Patna-800007, (ii) Smt. Manti Devi wife of Late Yadu Nandan Singh, Resident of Village-Tonria, P.O+P.S.-Punpun, District-Patna and (iii) Smt. Chandra Kant Devi, wife of Nand Kumar Singh, Resident of Village-Gabespur, P.O-Jatia, P.S.-Gaurichak, District-Patna. The said testator, late Jagdish Singh, was a Hindu governed by the Mitakshara School of Hindu Law and was permanently residing in State of Bihar, which is within the jurisdiction of this Court. The testator, Jagdish Singh, died on 11.03.1973 at about 07:45 AM at his village residence and the Will dated 14.02.1973 is the first and last Will and testament of the testator. As per family tree attached with the petition, the testator died issueless, leaving behind him, one sister, namely Manti Devi and one brother Nand Kumar Singh (applicant). The property covered under the Will were the ancestral as well as self acquired property of the testator, late



Jagdish Singh and on that authority, the testator bequeathed his property through a Will in favour of his younger brother, namely Nand Kumar Singh (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. 90,00,000/- (ninety lacs only), which is mentioned in the petition. It has further been submitted that the two attesting witnesses of the Will, namely Arjun Singh and Chanrda Kanti Devi 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 applicant has not moved any application earlier to this Court or any other court for grant of probate or letters of administration of the Will dated 14.02.1973.

08. Learned counsel for the applicant further submits that in this case general citations were also published in two daily local newspaper but none appeared to oppose the grant of letters of administration in favour of the applicant. Learned counsel further submits that the other witnesses of the Will, namely Arjun Singh and Manti Devi would not be able to come before the Court to depose in the matter as Arjun Singh has suffered paralytic attack and Manti Devi was quite old and she was not able to move, therefore, these witnesses have not been produced



by the application for their examination. 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 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 Will on 14.02.1973. 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 of the attesting witnesses have proved the Will. Both witnesses in categorical terms have stated that at the time of execution of Will, late Jagdish Singh, was in a good physical and 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 Jagdish Singh, in good state of conscious mind, without any coercion and pressure, fully understanding the contents of the Will, had put his thumb impressions on each page of the Will and on his request



the attesting witnesses put their respective signatures in the body of the Will dated 14.02.1973, which has been proved by the witnesses as discussed herein-above. Hence, I am of the considered view that the testator, late Jagdish Singh, 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 14.02.1973 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	13.05.2025
Transmission Date	NA

