

IN THE HIGH COURT OF JUDICATURE AT PATNA
TEST CASE No.4 of 2019

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In the Goods of Late Ramanand Chaudhary, Son of Late Bindhyanath Chaudhary Resident of 162, Patliputra Colony, P.S. Patliputra in the Town and Dist. of 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 02.02.1998.

And

In the matter of any application filed by Anand Kumar Chaudhary, son of Late Ramanand Chaudhary, Resident of E/21, Nishant Vihar, PO+ P.S. Adityapur, District-Saraikela, Kharsawan, Jharkhand, Pin-831013.

... .. **Applicant**

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Appearance :

For the Petitioner/s	:	Mr. Vivek Prasad, Advocate Ms. Roona, Advocate
For the NR-1	:	Mr. Alok Kumar Jha, Advocate
For the Nrs-2 & 3	:	Mr. Sanjay Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 20-02-2025

In compliance of the order dated 04.02.2025, necessary corrections in the examination-in-chief on affidavits filed on behalf the applicant have been made and the same is accepted.

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

03. This application has been filed under Sections 276 & 279 r/w 300 of the Indian Succession Act for grant of Letters of Administration of the Will dated 02.02.1998 executed by late Ramanand Chaudhary. The legatees/beneficiaries of the Will are



the applicant, namely Anand Kumar Chaudhary and his brother, namely Dr. Arun Kumar Chaudhary and his sisters, namely Smt. Sheela Jha and Smt. Neelu Mishra, respectively.

04. This Court vide order dated 01.01.2020 directed the applicant to take steps for publication of general citation in two local daily newspapers, namely *Prabhat Khabar* (Hindi) and the *Times of India* (English) in their Patna Editions and also for issuance of special citation upon three near relatives of the Testator-late Ramanand Chaudhary, by both processes, 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 *Prabhat Khabar (Hindi)*, dated 01.09.2022, and in *Times of India* (English), dated 02.09.2022, was accepted and was kept on record. All the near relatives of the testator, namely (i) Dr. Arun Kumar Chaudhary, (ii) Smt. Sheela Jha and (iii) Smt. Neelu Mishra appeared through *Vakalatnama* in the instant testamentary case. The aforesaid NRs 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 respective learned counsels.

05. In order to substantiate the claim made in the



instant testamentary application, altogether three witnesses, including one attesting witness of the Will, have been examined on behalf of the applicant, namely (i) attesting witness of the Will, Dipak Mishra (AW-1), (ii) the applicant, Anand Kumar Chaudhary (AW-2) and (iii) Samir Chaudhary.

06. AW-1, Dipak Mishra, who is the attesting witness of the Will, has been examined on 04.02.2025. 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 the testator, Ramanand Chaudhary, was his uncle (*Mausa*), who died on 28.01.2005 at about 04:00 PM in Patna at his residence 162, Patliputra Colony, Town & District-Patna. He further stated that testator-late Ramanand Chaudhary executed the Will on 02.02.1998 and it was handwritten Will on which he put his signature as an attesting witness along with another attesting witness namely, Dr. B. N. Choudhary, who has since died. He further stated while executing the Will, the testator was in sound mental and physical condition. He also stated that the testator executed the Will after fully understanding its contents and without any undue influence. This witness identified the Will dated 02.02.1998 executed by the testator, namely late Ramanand Chaudhary, and the signatures of the testator on each page of the Will, which have been marked as



Exhibit-1 and Exhibit-2 series, respectively. This witness also identified his signature as well as signature of another attesting witness, namely Dr. B. N. Choudhary, over the Will, which have been marked as Exhibits-3 and 4, respectively.

07. AW-2, Anand Kumar Choudhary, who is the applicant of the case, has been examined on 04.02.2025. 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 was his father, who was having two sons and two daughters. The witness further stated that he is the applicant of the present case and the witness and his other three siblings are the beneficiaries of the Will executed by the testator. He further stated that while executing the Will, his father was aged about 78-79 years. The will was made in the year 1998. This witness also stated that his father died on 28.01.2005. He also stated that there were two attesting witnesses of the Will, namely Dr. B. N. Choudhary, who has since died, and another attesting witness was his cousin, namely Dipak Mishra (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 02.02.1998 executed by the testator, namely late Ramanand Chaudhary, as well as his



signatures on each page of the Will, which have already been marked as Exhibit-1 and Exhibit-2 series, respectively. He further identified the signatures of the attesting witnesses to the Will, which have already been marked as Exhibit-3 and Exhibit-4, respectively.

08. AW-3, Samir Choudhary, has been examined on 04.02.2025. 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 is the son of the applicant of the present case and the grandson of the testator, late Ramanand Chaudhary. He further stated that the Will was witnessed by Dr. B. N. Choudhary and Dipak Mishra, who were his grandfather and uncle by relationship. This witness also identified the signatures of attesting witnesses of the will, which have already been marked as Exhibit-3 & 4. This witness further stated that his grandfather (testator) died on 28.01.2005. He further stated that while executing the Will, his grandfather (testator) was mentally and physically fit and the Will was the last Will of the testator.

09. Learned counsel for the applicant submits that late Ramanand Chaudhary executed the Will dated 02.02.1998 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) Dr. B. N. Chaudhary (since deceased), resident of Vivekanand Park, PO & P.S.-Patliputra, Patna and (ii) Sri Dipak Mishra, son of Dr. Ramanand Mishra, resident of Vivekanand Park, PO & PS-Patliputra, District-Patna. The said testator, late Ramanand Chaudhary, was a Hindu governed by the Mitakshara School of Hindu Law and had been permanently residing at House No. 162, Patliputa Colony, Town & District-Patna within the jurisdiction of this Court. The testator, Ramanand Chaudhary, died on 28.01.2005 at about 04:00 PM in Patna and the Will dated 02.02.1998 is the first and last Will and testament of the testator. The testator was the father of the applicant and he died leaving behind his wife, Shakuntala Chaudhary, who also died on 10.06.2015, and his two sons and two daughters including the applicant as his legal heirs/representatives. The property covered under the Will, as mentioned in Schedule-A of the plaint, were the self acquired property of the testator, late Ramanand Chaudahry and on that authority, the testator bequeathed his property through a Will in favour of his legal heirs/representatives, namely, Anand Kumar Chaudhary (applicant), Dr. Arun Kumar Chaudhary, Smt. Sheela Jha and Smt. Neelu Mishra, respectively and they have been named as the beneficiaries/legatees of the Will dated 02.02.1998



executed by the testator. Learned counsel further submits that after death of the testator, his legal heirs as well as beneficiaries of the Will 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 applicant and other beneficiaries of the Will is approximately Rs. 2,42,00,000/- (Two Crore Fourty Two Lacs Only), which is mentioned in the plaint. It has further been submitted that the applicant 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. 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 02.02.1998.

10. 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. Further, all the three near relatives, who are also the beneficiaries Will, have been represented through their learned counsels and they supported the contention of the learned counsel for 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 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 02.02.1998. There is no scope of any suspicion nor anybody has challenged the Will in question.

11. Having regard to the aforesaid facts and circumstances and considering the submission made by the learned counsel for the applicant, I am of the opinion that the witnesses for the applicant including one of the attesting witnesses have proved the Will. All witnesses in categorical terms have stated that at the time of execution of Will, late Ramanand Chaudhary, was in a good physical and mental health and he voluntarily executed the Will in favour of the legatees/applicant, completing the formalities and his signature has also been identified by the witnesses.

12. On analysis of the evidence(s) which have been deposed by the witnesses, it is very much clear that late Ramanand Chaudhary, in good state of conscious mind, without any coercion and pressure, fully understanding the contents of the Will, had put his signatures on each page of the Will and on his request the attesting witnesses put their respective signatures in the body of the Will dated 02.02.1998, which has been proved by the witnesses as discussed herein-above. Hence, I am of the



considered view that the testator, late Ramanand Chaudhary, executed the Will in favour of legatees/beneficiaries, namely Anand Kumar Chaudhary (applicant), Dr. Arun Kumar Chaudhary, Smt. Sheela Jha and Smt. Neelu Mishra, respectively in a proper state of mind with proper understanding of the contents of the Will.

13. Accordingly, this application is allowed. Let the Letters of Administration of the Will dated 02.02.1998 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	08-03-2025
Transmission Date	NA

