IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.530 of 2025
In
TEST CASE No.15 of 2018

CNR No. BRHC010460842025

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1. The State of Uttar Pradesh through the Special Secretary cum Additional Legal Remembrancer, Government of Uttar Pradesh, Lucknow.
2. The Additional Director General of Police, Home (Police) Unit-2, Police Headquarters, Uttar Pradesh, Lucknow.
3. The Commandant, 34th Battalion, PAC, Bhullanpur, Varanasi, Uttar Pradesh.

... ... Appellant/s

Versus

1. Ram Lal Gurda Son of Late Mukund Lal Gurda Resident of Narayan Chuan Chand Choura, P.O.- Chand Choura, P.S.- Vishnupad, District- Gaya.
2. Niraj Kumar, Son of Shyam Lal Resident of Suraj Kund, Ander Gaya, P.O.- Gaya, P.S.- Vishnupad, District- Gaya.
3. Awadh Narayan Singh, Son of Ram Naresh Singh Resident of 07 Manik Nagar Colony Lahartara, Bauliya, P.O.- Cantt. Varanasi, P.S.- Maduadi, District- Varanasi, permanent resident of Village- Parshottampur, Pargana Bhadohi, P.O.- Parsipur, P.S.- Chouri Bazar, District- Sant Ravi Das Nagar, Bhadohi.

... ... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Kumar Gangesh Gunjan, GP-7
	:	Mr. Parjat Saurav, AC to GP-7
For the Respondent/s	:	Mr. Rajeev Ranjan, Advocate
	:	Mrs. Bela Singh, Advocate
	:	Mr. A.K Thakur, Advocate

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA)

Date : 28-10-2026

Re: I.A. No. 02 of 2025

Heard Mr. Kumar Gangesh Gunjan, learned counsel for the applicants and Mr. Rajeev Ranjan, learned counsel for the respondents.

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2. The present interlocutory application has been filed by the applicants seeking leave of this Court to contest the present Letters Patent Appeal, primarily on the ground that they were not parties to the proceedings in Test Case No. 15 of 2018, which culminated in the order dated 24.08.2023.

3. Learned counsel for the applicants submits that the Testator was unmarried and neither had any siblings nor was his mother alive at the time of his death. The Testator was diagnosed with cancer and was undergoing treatment at Popular Hospital, Varanasi, Uttar Pradesh, where he died on 25.02.2018. It is further submitted that prior to his death, the Testator had executed and registered the Will in question on 23.02.2018, naming three beneficiaries, who were the applicants in the Test Case.

4. Learned counsel for the applicants further submits that one of the attesting witnesses to the said Will, namely, Pankaj Kumar Singh, is the son of one of the beneficiaries, namely, Awadh Narayan Singh. It is contended that the Will was executed and registered on 23.02.2018 and the Testator died just two days thereafter, i.e., on 25.02.2018. It is submitted that had the applicants been impleaded as parties, various discrepancies arising from the facts of the record, including the timing of the death of the Testator, could have been brought to the notice of the Court.

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5. Per contra, Mr. Rajeev Ranjan, learned counsel appearing on behalf of the respondents, submits that Section 63 of the Indian Succession Act, 1925, prescribes the manner of execution of a Will, which requires the signature or mark of the Testator and attestation by two or more witnesses. Section 68 of the Indian Evidence Act, 1872, prescribes the manner of proof of a document required by law to be attested, which can be established by examining at least one attesting witness.

6. It is further submitted that in the present case, A.W.-1, Pankaj Kumar Singh, stated that the Testator had put his signature at the bottom of the Will in his presence. He also identified the original Will and the signature of the Testator on every page thereof, as well as his own signature on page 9 of the Will, which were marked as Exhibits 1, 2 (series) and 3, respectively.

7. A.W.-2, Sahdev Yadav, stated that he had drafted the Will as per the instructions and desire of the Testator. He further stated that the Testator, after reading and understanding the contents, executed the Will in his presence and in the presence of the witnesses, namely, Pankaj Kumar Singh and Shashank Singh, who also signed the Will in the presence of the Testator.

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8. A.W.-3, Ram Lal Gurda, stated that the Will was executed by the Testator on 23.02.2018 and identified the original Will as well as the signature of the Testator thereon.

9. A.W.-4, Shashank Singh, stated that the Testator had executed the Will dated 23.02.2018 in his presence and in the presence of Pankaj Kumar Singh and Sahdev Yadav, after fully understanding its contents and without any force or coercion. He further stated that the Testator was in a sound mental condition at the time of execution of the Will and that the Will was executed at Varanasi, Uttar Pradesh.

10. Learned counsel for the respondents, therefore, submits that the Will in question was executed by the Testator in a sound state of mind, with full understanding and free consent, and that the testimonies of A.W.-1, A.W.-2, A.W.-3 and A.W.-4 duly establish its due execution and attestation.

11. It is a settled principle of law that the jurisdiction of a Probate Court is confined to examining whether the document propounded as the last Will and testament of the deceased was duly executed and attested in accordance with law and whether, at the time of its execution, the Testator was in a sound disposing state of mind. The question as to whether a particular bequest is good or bad does not fall within the purview of the Probate Court.

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12. The aforesaid principle has been enunciated by the Hon'ble Apex Court in the case of ***Chiranjilal Shrilal Goenka vs. Jasjit Singh and Others, reported in (1993) 2 SCC 507,*** paragraphs 15 and 16 of the said judgment are quoted hereinbelow:

> ***"15. In Ishwardeo Narain Singh v. Smt Kamta Devi [(1953) 1 SCC 295 : AIR 1954 SC 280]*** *this Court held that the court of probate is only concerned with the question as to whether the document put forward as the last will and testament of a deceased person was duly executed and attested in accordance with law and whether at the time of such execution the testator had sound disposing mind. The question whether a particular bequest is good or bad is not within the purview of the probate court. Therefore the only issue in a probate proceedings relates to the genuineness and due execution of the will and the court itself is under duty to determine it and preserve the original will in its custody. The Succession Act is a self-contained code insofar as the question of making an application for probate, grant or refusal of probate or an appeal carried against the decision of the probate court. This is clearly manifested in the fascicule of the provisions of the Act. The probate proceedings shall be conducted by the probate court in the manner prescribed in the Act and in no other ways. The grant of probate with a copy of the will annexed establishes conclusively as to the appointment of the executor and the valid execution of the will. Thus it does no more than establish the factum of the will and the legal character of the*

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executor. Probate court does not decide any question of title or of the existence of the property itself.

16. *The grant of a probate by court of competent jurisdiction is in the nature of a proceeding in rem. So long as the order remains in force it is conclusive as to the due execution and validity of the will unless it is duly revoked as per law. It binds not only upon all the parties made before the court but also upon all other persons in all proceedings arising out of the will or claims under or connected therewith. The decision of the probate court, therefore, is the judgment in rem. The probate granted by the competent court is conclusive of the validity of the will until it is revoked and no evidence can be admitted to impeach it except in a proceeding taken for revoking the probate. In Sheoparsan Singh v. Ramnandan Prasad Narayan Singh [ILR (1916) 43 Cal 694 : AIR 1916 PC 78 : 43 IA 91] the Judicial Committee was to consider whether the will which had been affirmed by a court of competent jurisdiction, would not be impugned in a court exercising original jurisdiction (civil court) in suit to declare the grant of probate illegal etc. The Privy Council held that the civil court has no jurisdiction to impugn the grant of probate by the court of competent jurisdiction. In that case the subordinate court of Muzafarbad was held to have had no jurisdiction to question the validity of the probate granted by the Calcutta High Court. In Narbheram Jivram Purohit v. Jevallabh Harjivan [AIR 1933 Bom 469 : 35 BLR 998 : 147 IC 362] probate was granted by the High Court exercising probate jurisdiction. A civil suit on the original side was filed seeking apart from questioning the probate, also other reliefs. The High Court held that when a*

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probate was granted, it operates upon the whole estate and establishes the will from the death of the testator. Probate is conclusive evidence not only of the factum, but also of the validity of the will and after the probate has been granted, it is incumbent of a person who wants to have the will declared null and void, to have the probate revoked before proceeding further. That could be done only before the probate court and not on the original side of the High Court. When a request was made to transfer the suit to the probate court, the learned Judge declined to grant the relief and stayed the proceeding on the original side. Thus it is conclusive that the court of probate alone had jurisdiction and is competent to grant probate to the will annexed to the petition in the manner prescribed under the Succession Act. That court alone is competent to deal with the probate proceedings and to grant or refuse probate of the annexed will. It should keep the original will in its custody. The probate thus granted is conclusive unless it is revoked. It is a judgment in rem".

13. Having considered the submissions advanced on behalf of the parties and upon perusal of the materials available on record, this Court finds that the jurisdiction of the Probate Court is confined to determining whether the Will was duly executed and attested in accordance with law and whether the Testator was in a sound disposing state of mind at the time of its execution. The question relating to the validity of any particular bequest or title over the property does not fall within the domain of the Probate

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Court. Therefore, the only issue in Probate proceeding is confined to the genuineness and due execution of the Will.

14. In the present case, the original Will has been preserved in the custody of the Court itself. Further, the evidence of A.W.-1, A.W.-2, A.W.-3 and A.W.-4 establishes the execution and attestation of the Will in question. The Will has been found to be a valid and genuine document, and the applicants in Test Case No. 15 of 2018 have been held entitled to grant of probate on its basis.

15. This Court further finds that the applicants herein have failed to demonstrate any legally sustainable ground warranting grant of leave to contest the present appeal. The grounds sought to be raised by them do not disclose any infirmity in the findings recorded in the probate proceedings so as to justify their intervention in the present matter.

16. In view of the aforesaid facts and circumstances, this Court finds no merit in the present interlocutory application.

17. Accordingly, I.A. No. 02 of 2025 stands dismissed.

Re: L.P.A. No. 530 of 2025

18. In view of the dismissal of I.A. No. 02 of 2025, whereby the applicants have been declined leave to contest the

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present Letters Patent Appeal, the appeal itself cannot be proceeded with.

19.Accordingly, L.P.A. No. 530 of 2025 stands dismissed.

20. Pending application(s), if any, shall also stand disposed of.

(Sudhir Singh, J)

(Rajesh Kumar Verma, J)

Suruchi/-

AFR/NAFR	NAFR
CAV DATE	NA
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