

IN THE COURT OF DISTRICT JUDGE-IV, AURANGABAD

In the matter of

1. Smt. Asha Devi

..... Applicant

Versus

1. Estate of Deceased
2. Naresh Ram (Now deceased)
3. Ganesh Ram
4. Arjun Ram
5. Sharda Kuer

.....Opposite Parties

Date of Filing : 10 September, 2020

Date of Judgment : 12 March, 2026

For the Petitioner : Sri Sunil Kumar Singh

For the Opposite Parties: Ex-parte

Present
Divya Vashistha
District Judge-IV
Aurangabad, Bihar

JUDGMENT

1. The present Letter of Administration (in short, LA) case is filed on behalf of the applicant Smt. Asha Devi for grant of LA under Section 278 of the Indian Succession Act, 1925 in respect of the first registered Deed of Will dated 16.10.2006 and the Second registered Deed of Will dated 10.10.2007 executed by testatrix deceased Deomani Kuer in favour of the petitioner with regard to the properties specified in Scheduled I and II mentioned at the foot of present petition.
2. The brief facts of the case according to the petition of the petitioner was that the testator of both the Registered Deed of Wills in question was mother-in-law of the applicant. The first Will was drafted by the deed writer Suresh Singh Yadav on 16.10.2006 and the same was registered at the Registry Office, Aurangabad on

***Divya Vashistha,
District Judge-IV
Aurangabad, Bihar***

the instruction of the testator and in presence of the attesting witnesses- Fekan Ram and Krit Kumar the contents of the alleged Will was read over and explained to the testator who after finding it to be true and correct gave impression of her five fingers in presence of the above mentioned witnesses. The said Will was registered on 03.11.2006 as Deed no. 110. Likewise, the Deed of Will dated 10.10.2007 was again written by the deed writer Suresh Singh Yadav which was read over and explained to the testator who gave her impression on the Will after understanding the same in presence of attesting witnesses Fulendra Ram and Sineshwar Paswan. The mentioned Will was registered on 26.10.2007 as Deed no. 147. The testatrix died on 15.02.2008 at village-Majiawa, PS- Nabinagar, District- Aurangabad. The mentioned two alleged Wills with regard to the properties specified in Scheduled I and II were last Wills and testaments of the testator. The property mentioned in the alleged two Wills were situated in village- Majiawa, P.S. Nabinagar, District- Aurangabad which were in the jurisdiction of the present Court. The mentioned properties were valued Rs.15,56,200/- (Fifteen lakhs Fifty Six thousands two hundred only). After the death of the testator, the present LA petition was filed for grant of LA in favour of the petitioner with regard to the mentioned two Wills.

3. None appeared on behalf of the Opposite Parties despite issuance of citation against the estate of the deceased (OP no.1) and due service of notice on OP no. 2 to 4. Therefore, the Court proceeded ex-parte against them.

FINDINGS

The Petitioners adduced the following oral evidences

PW-1	Fulendra Ram	(Witness of Will)
PW-2	Krit Kumar	(Witness of Will)
PW-3	Fekan Ram,	(Witness of Will)
PW-4	Asha Devi	(petitioner)

The following documents were proved on behalf of the petitioners-

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| Exhibit-1 | Signature and handwriting of PW-1 on the original registered Will no. 147 dated 26.10.2007. |
| Exhibit-2 | Signature of PW-1 on the original registered Will no. 147 dated 26.10.2007 as an identifying witness. |
| Exhibit-3 | The Original registered Will no. 147 dated 26.10.2007 written by Late Deomani Kuer in favour of the petitioner. |

- Exhibit-4 Signature and handwriting of PW-3 on the original registered Will no. 110 dated 03.11.2006.
- Exhibit-5 Handwriting of PW-2 on the original registered Will no. 110 dated 03.11.2006.
- Exhibit-6 The original registered Will no. 110 dated 03.11.2006 written by late Deomani Kuer in favour of the petitioner.
- Exhibit-7 Signature of PW-3 on the original registered Will no.110 dated 03.11.2006.

On going through the oral evidence on behalf of the petitioners, it is revealed that four witnesses were examined on their behalf and there are two original wills in questions for which the present LA case has been brought.

The first will in question is the original registered Deed of Will no.147 dated 26.10.2007 (Exhibit-03). PW-01 is the attesting witnesses of the mentioned will (Exhibit-03). He proved his signature as an attesting witness (Exhibit-2), his signature (Exhibit-1) as an identifying witness in presence of whom the testator of the registered Deed of Will no.147 dated 26.10.2007 (Exhibit-03) gave finger impression of all five fingers of her right hand. He also proved the original registered Deed of Will no.147 dated 26.10.2007 (Exhibit-03). The said Will was pertaining to the property prescribed in schedule II of the plaint.

The second alleged Will is the original registered Will no. 110 dated 03.11.2006 (Exhibit-06) executed by Late Devmani Kuer in favour of the petitioner. PW-2 and PW-3 are the two witnesses of the mentioned Will. PW-02 proved his signature (Exhibit-05) on the stated Will and he further proved the handwriting of PW-3 (Exhibit-4) who identified the five finger impression of right hand of Devmani Kuer. PW-3 also proved his signature (Exhibit-07) as an identifier of the finger impression of the testator properties mentioned in Schedule I was in connection of the stated Will. PW-4 is the petitioner of the present case in whose favour the two Wills in question were executed by the testator Late Devmani Kuer. She deposed that both the Wills-in-question were the last known Wills to be written by the testator Late Devmani Kuer.

According to Section 68 of the Indian Evidence Act that a Will shall not be used in an evidence unless one attesting witness at least has been called for the purpose of proving its execution if there be an attesting witness alive. PW-1 is the attesting witness of the original registered Deed of Will no.147 dated 26.10.2007 (Exhibit-03). Similarly, PW-2 and PW-3 are the attesting witnesses

of the original registered Will no. 110 dated 03.11.2006 (Exhibit-06). All the three witnesses of both the Wills verified that the testator signed them in their presence after understanding the contents of the Will. On appreciating the evidence on behalf of the petitioner it is depicted that the petitioner succeeded in establishing that both the registered Wills in question were executed by the testatrix in accordance with law. Moreover, both the Wills were original and registered and it is a settled principle of law that any registered document is considered to be valid and genuine unless rebutted. As the case is proceeding ex-parte against the opposite party, hence, the genuineness of the Wills go unchallenged. In light of the above facts let a Letter of Administration be issued in favour of the petitioner in Form set forth in Schedule-VII prescribed under Section 290 of the Indian Succession Act, 1925. The copy of both the Wills (Exhibit-3 and 6) shall be the part of the Letter of Administration.

Let the file of this Letter of Administration be consigned to the District Record Room, Aurangabad after necessary compliance.

Given under my hand and seal of this Court on this 12th day of the March, 2026.

Dictated, corrected and Delivered

(Divya Vashistha)

**District Judge-IV,
Aurangabad
12.03.2026**

Dictated, corrected and Delivered

(Divya Vashistha)

**District Judge-IV,
Aurangabad
12.03.2026**

Uploading date: 12.03.2026

Uploaded by: Vikul Kumar Steno