

**IN THE COURT OF DISTRICT JUDGE-IV, AURANGABAD**

In the matter of

Smt. Usha Devi, Age-60 Years, W/o- Late Dhanesh Paswan @ Dhanesh Ram

R/o Village- Manukhap, PS- Tandwa, District- Aurangabad (Bihar)

..... Applicant

Versus

1. The Estate of Deceased (Dhanesh Paswan)
2. Tetari Devi D/o Late Dhanesh Paswan ( Deleted vide Order dated 30.01.2025)
3. General Public

All R/o village- Manukhap, PS- Tandwa, District- Aurangabad (Bihar)

.....Opposite Parties

Date of Filing : 18.04.2023

**Date of Judgment : 19.05.2026**

For the Petitioner : Sri Arun Sharma, Advocate

Present  
Divya Vashistha  
District Judge-IV  
Aurangabad, Bihar

**JUDGMENT**

1. The present Probate case is filed on behalf of the petitioner Usha Devi for grant of probate under Section 276 of the Indian Succession Act, 1925 in respect of the registered Will dated 19.11.2018 executed by Late Dhanesh Paswan in favour of the petitioner.
2. The brief facts of the case according to the petition of the present probate case is that the testator Dhanesh Paswan during his life time voluntarily executed a registered Will dated 19.11.2018 in favour of the petitioner who was his wife. The said Will was drafted by deed writer Umesh Kumar Sinha at the instance of the testator. The deed writer read over and explained the contents of the Will to the testator who thereafter gave his finger impression on the Will which was identified by Jairam Singh. In the

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

said Will Jairam Singh and Laxman Prasad were the two witnesses. The said Will was executed by the testator in the sound state of mind without any coercion or undue influence. The property mentioned in the Will has been described in the Schedule I of the probate petition. The said Will was the last Will of the testator. In light of given facts, the learned counsel prayed to grant probate in favour of the petitioner with regard to the property described in the mentioned Will.

3. None appeared on behalf of the Opposite Party ,hence, the Court proceeded ex-parte against them.

### **FINDINGS**

The Petitioners adduced the following oral evidences

**PW-1 Jairam Singh, (Attesting witness of the Will)**

**PW-2 Usha Devi, (Petitioner)**

**PW-3 Laxman Prasad, (Attesting witness of the Will)**

The following documents were proved on behalf of the petitioner-

- |             |   |
|-------------|---|
| Exhibit-1   | Signature of PW-1 on the registered Will dated 19.11.2018 as a witness.   |
| Exhibit-1/a | Signature of PW-1 on the registered Will dated 19.11.2018 after attesting the thumb impression of the testator. |
| Exhibit-1/b | Signature of PW-3 as a witness on the registered Will dated 19.11.2018.   |
| Exhibit-1/c | Signature of deed writer Umesh Kumar Sinha on the registered Will dated 19.11.2018.                             |
| Exhibit-2   | Registered Will bearing deed no. 148 dated 19.11.2018 executed by Dhanesh Paswan in favour of PW-2.             |
| Exhibit-3   | The death certificate of the testator   |

On going through the oral evidence on behalf of the petitioner, it is revealed that three witnesses were examined on her behalf.

PW-1 stated that the testator who was husband of the petitioner died in the month of March 2022. The testator executed a registered deed of Will bearing no. 148 dated 19.11.2018 in favour of the petitioner on which he (PW-1) and PW-3 were the witnesses. The testator gave thumb impression on the Will in presence of both the witnesses and the said Will was drafted by a deed writer Ramesh Prasad. The contents of the Will were recited to the testator by the deed writer. The witness proved the following documents-

- Exhibit-1            Signature of PW-1 on the registered Will dated 19.11.2018 as a witness.
- Exhibit-1/a         Signature of PW-1 on the registered Will dated 19.11.2018 after attesting the thumb impression of the testator.
- Exhibit-2            Registered Will bearing deed no. 148 dated 19.11.2018 executed by Dhanesh Paswan in favour of PW-2.

PW-2 mentioned that the testator was the husband who executed the deed of Will in her favour on which PW-1 and PW-3 were the witnesses. The testator was in sound state of mind at the time of execution of the Will.

PW-3 specified that the testator executed the Will in favour of PW-2 in which he and PW-1 were witnesses. The said witnesses proved the following documents-

- Exhibit-1/b         Signature of PW-3 as a witness on the registered Will dated 19.11.2018.
- Exhibit-1/c         Signature of deed writer Umesh Kumar Sinha on the registered Will dated 19.11.2018.

The aforesaid witnesses were not cross-examined due to ex-parte proceedings against the opposite party.

On appreciating the evidence given by the petitioner it is apparent that PW-1 and PW-3 are the attesting witnesses of the Will (Exhibit-2) in question while PW-2 is the petitioner who is beneficiary of the Will. All the witnesses affirmed that the testator was under sound state of mind at the time of execution of the mentioned Will. Further, the alleged Will (Exhibit-2) is registered and it is settled principle of law that any registered Will is considered to be valid and genuine unless rebutted. Due to ex-parte proceedings non appeared on behalf of the opposite party to rebut the same.

Moreover, both the attesting witnesses of the Will have been examined in the present case and the Will in question was proved by one of the attesting witness (Exhibit-1). Therefore, the petitioner succeeded in establishing that the registered Will (Exhibit-2) was executed by the testator in accordance with law and was proved in the Court following the conditions laid down in S 68 of the Indian Evidence Act. The death certificate (Exhibit-3) of the testator is on record which verifies that the testator died before the filing of the present case.

In light of given facts, let a probate be issued in favour of the petitioner in Form VI set forth in Schedule 6 prescribed under Section 289 of the Indian Succession Act, 1925. The copy of the Will (Exhibit-2) shall be part of the Probate.

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

Given under my hand and seal of this Court on this 19<sup>th</sup> day of the May, 2026.

**Dictated, corrected and Delivered by me.**

**(Divya Vashistha)  
District Judge-IV,  
Aurangabad  
19.05.2026**

Date on which Judgment is reserved	04.05.2026
Date of Judgment	19.05.2026
Uploading Date	20.05.2026
Uploaded by	Vikul Kumar Steno