

For the Plaintiff/Petitioner: Sri Sanjay Kumar Singh, Learned Advocate

For the Defendant/OP : Sri Kapil Dev Jha, Learned Advocate

S.N.	Date	Order with Signature	Office Action taken with date
	06/08/2026	1. File presented for order on two petitions dated 19/06/2026 filed by the Plaintiff/petitioner and their rejoinder dated 30/06/2026 filed by the Defendant/OP. 2. Order on Petition Under O VI Rule 17 CPC 1. Submission on behalf of the Plaintiff/petitioner Conducting the petition, the Learned Counsel submitted that 1. The probate case was filed for probate of the WILL dated 22/12/2004 executed by Late Ram Ayodhya Bhagat. 2. The case was fixed for Final order, but in the meantime, it was noticed that Compliance of Section 279 of the Indian Succession Act, 1925 was not made in the petition. 3. The petitioner hereby affirms, to the best of his knowledge, that no application has been made to any other court for probate of the same Will or for letters of administration of the same estate intended to have effect throughout India. 4. The omission to state this in the original petition was purely inadvertent which was curable without prejudice to the opposite party, and refusal to permit compliance would result in miscarriage of justice. 5. The Learned counsel prayed to allow the petition and the amendment. 2. Objection by the OP/Defendant Objecting the petition, the Learned counsel submitted that 1. The petition as framed and filed was not maintainable either in law or on fact of the case as the applicant got no right to file such amendment petition at the belated stage without reason of delay when on 19.06.2026 case was fixed for judgment. 2. No cogent reason was assigned in the petition as to why the amendment petition was not filed earlier. 3. The amendment as sought by the applicant if allowed will completely change the nature of the case. 4. It was prayed to reject the petition. 3. The Law Before advertng to the merits of the petition, it would be worth a while to have a look over the relevant provisions of	

Continued
06/08/2026

the Law.

1. Section 266 of the Indian Succession Act - District Judge's powers as to grant of probate and administration - The District Judge shall have the like powers and authority in relation to the granting of probate and letters of administration, and all matters connected therewith, as are by law vested in him in relation to any civil suit or proceeding pending in his Court.
2. Section 268 of the Indian Succession Act - Proceedings of District Judge's Court in relation to probate and administration.-The proceedings of the Court of the District Judge in relation to the granting of probate and letters of administration shall, save as hereinafter otherwise provided, be regulated, so far as the circumstances of the case permit, by the Code of Civil Procedure, 1908. (5 of 1908.)
3. Order VI Rule 17 of the Code of Civil Procedure - Amendment of pleadings— The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties.

4. Finding

1. Conjoint reading of Section 266 and 268 of the Indian Succession Act reveals that the powers of the Court with respect to probate or LA proceedings is the same as in any civil suit or proceeding. Such proceedings will be regulated, so far as the circumstances of the case permit, by the Code of Civil Procedure, 1908.
2. Perused the record. The instant case is a Testamentary suit arose out of a Probate case filed by the plaintiff/petitioner with respect to a WILL executed by Late Ram Ayodhya Bhagat in his and his brother favor. The defendant/OP objected the same. The genuineness of the execution of the WILL is to be tested here.
3. Through the instant petition the petitioner sought adding certificate of S. 279 Indian Succession Act in probate petition “ The petitioner hereby affirms, to the best of his knowledge, that no application has been made to any other court for probate of the same Will or for letters of administration of the same estate intended to have effect throughout India.”

Continued
06/08/2026

4. Section 279 of the Indian Succession Act reads as under:
(1) Every person applying to any of the Courts mentioned in the proviso to Section 273 for probate of a Will or letters of administration of an estate intended to have effect throughout India, shall state in his petition, in addition to the matters respectively required by Section 276 and Section 278, that to the best of his belief no application has been made to any other Court for a probate of the same Will or for letters of administration of the same estate, intended to have such effect at least aforesaid, or, where any such application has been made, the Court to which it was made, the person or persons by whom it was made and the proceedings (if any) had thereon.

(2) The Court to which any such application is made under the proviso to Section 273 may, if it thinks fit, reject the same."

5. The section seems to have inserted with the purpose of informing the Court beforehand that the Testamentary disposition upon which the propounder relying has never been a subject matter of previous judicial scrutiny. It is settled cannon of civil law that the court should be slow in deciding the case on technical grounds and all efforts be made to adjudicate it on merit. As is obvious, the amendment sought is mere procedural and would not change the nature of the case, if allowed.

6. In the facts and circumstances mentioned above, the petition under Order VI Rule 17 CPC filed on behalf of the petitioner dated 19/06/2026 is hereby allowed and following orders are passed

1. Let the amendments sought be made by the petitioner subject to payment of the cost of Rs. 2000/-

7. The cost shall be deposited in the Bihar Victim Compensation Fund's Punjab National Bank Account.

3. Order on Petition to Mark Death Certificate

1. Submission on behalf of the Plaintiff/petitioner

Conducting the petition, the Learned Counsel submitted that

1. The probate case was filed for probate of the WILL dated 22/12/2004 executed by Late Ram Ayodhya Bhagat.
2. The case was fixed for Final order, but in the meantime, it was noticed that the death certificate of the testator could

Continued
06/08/2026

not be led in evidence.

3. The omission was purely inadvertent and the petitioner has now filed the original death certificate of Late Ram Ayodhya Bhagat through list of documents.
4. The probate proceedings being in rem, proof of death of the testator was foundational, and refusal to permit exhibition of the death certificate would result in miscarriage of justice.
5. It was prayed to reopen the evidence for the limited purpose of marking the death certificate as Exhibit.

2. Objection by the Defendant/OP

Objecting the petition, the Learned counsel of the OP submitted that

1. That the petition as framed and filed by the applicant was not maintainable either in law as well as on facts as he got no right or cause to file such petition and Death Certificate of Late Ram Ayodhya Bhagat at a belated stage when the case was fixed for Judgment and also without taking leave of the Court.
2. The petitioner only served the list of document and not the copy of the certificate to the OP and no date of death was mentioned on it.
3. Late Ram Ayodhya Bhagat died on 29.10.2007, while the Probate Case filed in 2010, perhaps copy of death Certificate issued in 2015 and death Certificate filed on 19.06.2026 when the case was fixed for judgment without showing any cogent reason of delay and leave to file and hence it could not be taken in evidence and also not be marked as exhibit in the case.
4. It was prayed to dismiss the petition.

3. The Law

1. Section 74 of the Indian Evidence Act – Public documents.
The following documents are public documents:--
(1) documents forming the acts or records of the acts--
(i) of the sovereign authority
(ii) of official bodies and tribunals, and
(iii) of public officers, legislative, judicial and executive, of any part of India or of the Common-wealth, or of a foreign country;
(2) public records kept in any state of Private Documents.

4. Finding

1. Perused the record. The instant case is a Testamentary suit

Continued
06/08/2026

arose out of a Probate case filed by the plaintiff/petitioner with respect to a WILL executed by Late Ram Ayodhya Bhagat in his and his brother favor.

2. There is no dispute over the death of Ram Ayodhya Bhagat. According to the OP/defendant Ram Ayodhya died on 29.10.2007. The certificate of death filed by the Plaintiff also mentioned the date of Death of Ram Ayodhya as 29/10/2007. The Death certificate is a public document in terms of section 74 of the Evidence Act. Except the vague objection no definite protest was made on the authenticity of the death certificate filed by the plaintiff. Though it is a fact that the death certificate was filed by the plaintiff at a very belated stage of the case.
3. In the facts and circumstances mentioned above, the petition dated 19/06/2026 filed on behalf of the petitioner is hereby allowed and following orders are passed
 1. The Death Certificate is directed to be marked as Exhibit 3 with objection of the OP, subject to the payment of the cost of Rs. 8000/-
 2. Out of Rs. 8000/-, Rs. 4000/- shall be paid by the plaintiff to Defendant and rest Rs. 4000/- shall be deposited in the Bihar Victim Compensation Fund's Punjab National Account.
4. Hon'ble High Court have been pleased to direct the Courts across Bihar to dispose of the old cases on priority basis. This case has been identified as one of the Oldest case in the Court Docket, hence both the sides are expected to act wisely and directed to co-operate the Court in Expeditious disposal of the case.
5. Fixed **13/08/2026** for further proceedings.

Written and corrected by

Neeraj Kumar II
District Judge I
Darbhanga