

For the Intervener /petitioner: Sri Mukul Kumar Raushan, Learned Advocate

Sri Pramod Kumar Thakur, Learned Advocate

For the Applicant : Sri Manoj Kumar Srivastava, Learned Advocate.

SN	Date	Order with Signature	Office Action taken with date
	10/08/2026	1. File presented for order on the petition dated 27.04.2026 under Order I Rule 10(2) r/w s 151 CPC filed by the Intervener Amitabh Chandra and rejoinder dated 29/06/2026 filed by the applicant. Order 2. Submission on behalf of the petitioner Amitabh Chandra Conducting the petition, the Learned Counsel submitted that 1. The present petitioner was admittedly son of Ajay Chandra while Ajay was brother of Achintya Chandra as also shown in the genealogical table of the Probate petition. 2. After death of issueless Achintya Chandra, the properties devolved upon the brothers and their children. 3. The present probate case was filed on the basis of forged, and fabricated WILL in collusion with Ashok Kumar Nirmohi and Asim Mukherjee as the Achintya Chandra was not in good frame of mind and was suffering from severe old age diseases and thus was unable to understand the implication of his doing. 4. Father of the petitioner Ajay Chandra was one of the co-sharer of properties and hence the petitioner had legal right to be heard in this Probate. 5. The land appertaining to C. S. Khata 489 C. S. Khesra 2394 mentioned in the forged WILL was partitioned among the Ajay Chandra, Amitabh Chandra, Subrat Chandra, Bijli Chandra, Subarato Chandra and Devbrat Chandra through a unregistered partition deed signed by all parties. 6. This forged and fabricated WILL may create mischief if probated by this court 7. It was prayed to hear the petitioner in this case in the interest of justice and to see the proceedings. 3. Objection by the Applicant Objecting the petition, the Learned counsel of the applicant submitted that 1. That the petition as framed and filed by the petitioner Amitabh Chandra was not maintainable under the eye of law or on facts. 2. Amitabh Chandra was a mischievous person and sold the property of Aloka Chandra who happened to be aunt (father's	

Continued
10/08/2026

sister) without having any WILL of said Aloka Chandra by executing a Panchnama Batwara dated 22.03.2023 and left Darbhanga.

3. In the said Panchnama Batwara it was clearly mentioned, that the property mentioned in schedule-क became the property of Subrato Chandra and Devbrat Chandra and the property mentioned in schedule-ख became the property of Amitabh Chandra and, also the number of the present probate case
4. Amitabh filed the present petition with malafide intention only to harass the applicant.
5. Father of Amitabh Chandra appeared by filing Wakalatnama but never made any proper pairvi in the case till his death and he was debarred from the filing the objection.
6. Even after publication of notice in daily news paper Hindustan on 17.04.2023, when nobody turned up, the case was fixed for evidence.
7. Evidence of the applicant as well as the attesting witness concluded prior to filing of the petition.
8. The statement of para 4 of the petition was denied as the attesting witness stated in their evidence that the testator had duly executed his WILL before him in his healthy state of mind and body.
9. The statements made in para-5 & 6 of the petition was self contradictory as Amitabh himself entered into a Panchanama Batwara and relinquished his share in the property which was subject matter of the present probate case, now he could not claim that the WILL of Achintya Chandra Chandra was forged and fabricated.
10. It was prayed to reject the petition.

4. 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. It would be profitable to have a look over Section 283 of the Indian Succession Act 1925 which enumerates the powers of the District Judge.

Continued
10/08/2026

1. Section 283(1)(c) of the 1925 Act confers power upon the District Judge to issue citations calling upon all persons claiming to have any interest in the estate of the deceased to come and see the proceedings before the grant of 'Probate' or 'Letters of Administration'.
2. Sub-section (2) of Section 283 postulates that the citation shall be fixed up in some conspicuous part of the court-house, and also the other spaces as specified therein. Section 284 of 1925 Act provides for the lodging of caveats against grant of Probate or Letter of Administration with a copy of the Will annexed with a District Judge or a District Delegate.
4. Order 1 rule 10(2) CPC - Court may strike out or add parties. —The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name, of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.

5. Judicial Pronouncement

In the case of Krishna Kumar Birla vs Rajendra Mal Lodha and Others¹, Hon'ble Apex Court in the para 86 of the Judgment observes

86. Section 283 of the 1925 Act confers a discretion upon the court to invite some persons to watch the proceedings. They must have an interest in the estate of the deceased. Those who pray for joining the proceeding cannot do so despite saying that they had no interest in the estate of the deceased. They must be persons who have an interest in the estate left by the deceased. An interest may be a wide one but such an interest must not be one which would not have the effect of destroying the estate of the testator itself.

6. Finding

1. Perused the record. The instant Petition is brought for Probate of WILL dated 22/02/2015 executed by Late Achintya Chandra Chandro in favor of the applicant. On 01/07/2022 Ajay Chandra Chandro appeared with vakalatnama. No objection was filed and the case was proceeded for evidence vide order dated 15/12/2023. The genuineness of the WILL is to be tested in the present proceedings. Some witnesses have

Continued
10/08/2026

also been examined by the Applicant.

2. 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. It is also pellucid that the citations in terms of Section 283 (1)(c) are issued, calling upon all such persons who claim to have any interest in the estate of the deceased, in order to enable such persons to see the proceedings before the grant of probate and if necessary to oppose the same.
3. A person to whom a citation is to be issued must have some interest in the estate of the testator. Any person claiming any interest adverse to the testator or his estate cannot maintain any application before the Probate Court. His remedy would be elsewhere. The sole test for a person claiming to intervene in a Probate proceedings is Whether the grant of Probate may prejudice his right as it defeats some other line of succession through which he asserts his right. Such interest must however not be having the effect of demolishing the testator estate itself or that he must not be questioning the existence of title in respect of the estate or capacity of the testator to dispose of the property by Will on ground outside the law of succession. A Will is executed when the testator wants to defeat the ordinary line of intestate succession. A person who would have succeeded to the estate of the testator also have some interest in the estate.
4. It is no more res integra that the jurisdiction of the Probate Court is limited being confined only to consider the genuineness of the WILL. A question of title arising under the Act cannot be gone into the proceedings. Reference of the Panchnama Batwara, alleged sale of land by Amitabh all are the questions beyond the domain of the Probate Court.
5. There is no dispute over the fact that Amitabh Chandra is the son of Ajay Chandra. Ajay Chandra and Achintya Chandra (Testator) were full brothers. Applicant Subarto is the son of Arun Chandra. Arun also was a full brother of Achintya. Thus Subarto and Amitabh stand on a similar pedestal with respect to their relation to the deceased testator as both are nephews of the deceased testator. Without commenting upon the genuineness of the WILL in question, it is clear that had this WILL not been in picture, Amitabh could also succeed the estate of the deceased testator Achintya as it is the applicant claim that Achintya died issueless. Hence Amitabh does have some interest in the property mentioned in the WILL. Merely that his father chose not to contest the case doesn't divest

Continued
10/08/2026

Amitabh of his right to intervene.

6. In the legal and factual matrix set out above, I am of the considered opinion that the petitioner Amitabh Chandra does have an interest in the estate of the deceased testator. By virtue of the powers conferred under the Code of Civil Procedure and the Indian Succession Act, the petition dated 27/04/2026 is hereby allowed and following orders are passed
1. The Petitioner Amitabh Chandra is impleaded as defendant in the present proceedings subject to his payment of the cost of Rs. 1000/- to the Bihar Victim Compensation Fund.
 2. After payment of the cost, the newly added defendant shall file the Written statement as soon as possible in accordance with the law.
7. Fixed 03/09/2026 for further proceedings

Written and corrected by
Sd/-
Neeraj Kumar II
District Judge I
Darbhanga