

Smt. Siyamani Kumari @ Seema Devi vs Estate of Late Girja Sharma
In The Court of Principal District Judge, Gayaji
Probate Case No.-97 of 2022

PRESENT

Madan Kishore Kaushik

Principal District Judge, Gayaji

Dated, Gayaji, the 17th March, 2026

Smt. Siyamani Kumari @ Seema Devi-----Plaintiff/Applicant

Vs

Estate of Late Girja Sharma

(i) Smt. Manju Kumari-----Respondent

For the Applicant: Sri Dipendra Kumar Sinha, Advocate

For the Respondent: Sri Manoj Kumar Sinha, Advocate

ORDER

(1) The present probate case has been filed under Section 276 of the Indian Succession Act for granting of probate in respect of unregistered WILL dated 04.01.2016 executed by testator Girja Sharma in favour of the applicant.

(2) It is stated in the application that deceased Girja Sharma, who is the testator, had executed WILL in favour of applicant namely Smt. Siyamani Kumari @ Seema Devi during his lifetime while he was in sound state of mind and body and details of the properties bequeathed have been referred in the said WILL. It has further been referred therein that witnesses namely Anand Kishore Dwivedi and Kishore

In The Court of Principal District Judge, Gayaji

Probate Case No.-97 of 2022

Prasad were present at the time of execution of WILL and they have put their signature as witnesses on the WILL executed by Girja Sharma in favour of Smt. Siyamani Kumari @ Seema Devi, i.e. wife of nephew of testator. It has been further referred that the testator died leaving behind only daughter Smt. Manju Kumari, who has been fully described in para-6 of the application. Under the facts, it has been prayed that probate may be granted to the applicant.

(3) It appears that pursuant to the notice issued by this court, the sole daughter of testator namely Smt. Manju Kumari appeared on 18.06.2025 and a fresh Vakalatnama has been filed on her behalf and thereafter, Ld. Counsel representing the opposite party/defendant sought adjournment in order to file reply. It further transpires that despite granting enough opportunity, neither Ld. Counsel representing the opposite party/defendant turned up nor did he file any reply. Perusal of order sheets goes to show that on 22.01.2026 last opportunity had been given to opposite party/defendant to file reply within a week, but Ld. Counsel representing the opposite party/defendant did not appear on the next date i.e. on 03.02.2026, let alone file a reply. Further, the Ld. Counsel representing the opposite party/defendant was informed over phone also regarding the proceeding of the case, but he still did not appear nor any reply was filed. That being the position, this court was left with no option but to proceed further with the case.

In The Court of Principal District Judge, Gayaji

Probate Case No.-97 of 2022

(4) On behalf of applicant, five witnesses have been examined and they are namely Siyamani Kumari @ Seema Devi (AW-1), Anand Kishore Dwivedi (AW-2), Kishore Prasad (AW-3), Pradeep Kumar (A.W.-4) and Vinay Singh (AW-5).

(5) AW-1 is the applicant herself who has stated that testator Girja Sharma died on 01.04.2018. It is further stated that the WILL was executed with respect to the property in her favour on 04.01.2016 without any pressure, threat or undue influence on which he put his signature in presence of the witnesses. The testator fully understood the entire facts written in the said WILL.

(6) AW-2 is the attesting witness to the said WILL and he has stated in similar terms as that of AW-1. He further deposed that he has made his signature as a witness on the WILL on the instruction of the testator and on his identification the said WILL, it is exhibited as Exhibit No.1. He also corroborated the fact that at the time of execution of said WILL, the testator was in sound state of mind and body.

(7) AW-3 is also another attesting witness to the said WILL. He has stated that testator was owner and possessor of the property under the Will. He further stated that the testator Girja Sharma executed the WILL in favour of applicant on 04.01.2016 and the contents of the WILL was read over and explained to testator Girja Sharma and then he put his signature thereon. This witness stated that at that time execution of WILL, testator was in sound state of mind and body.

In The Court of Principal District Judge, Gayaji

Probate Case No.-97 of 2022

(8) AW-4 Pradeep Kumar happens to be advocate clerk of the Ld. advocate representing the applicant, who has stated that he was entrusted the task of obtaining the up-to-date rent receipt of the immovable property referred in the said WILL. He has further stated that on 03.02.2026, he got the print-out copy of online rent receipt bearing Running Unique No. 03022605355600862188 from government official website through a Cyber Café situated at Gaya and the same is available on the record. On his identification of the said online rent receipt, it is marked as Exhibit-2.

(9) AW-5 Vinay Singh happens to be an acquaintance of family members of applicant, who has stated that he is well acquainted with the signature and handwriting of the family members of the applicant. He has further deposed that today he saw the original document of Memorandum of Family Settlement presented before the court and he has recognized the same as original one. He has stated that this document of Memorandum of Family Settlement has been executed on 07.11.2014 and from page one to page twelve of this document bear the signature as well of thumb impression at appropriate place of first party Girja Sharma, second party Arun Kumar and Santan Kumar, third party Raj Kumar and Rakesh Kumar. He has also stated that at the last of this document, two persons namely Devendra Kumar and Krishna Kant Sharma have put their signatures as two witnesses. He has further deposed that said memorandum of family settlement had been prepared

In The Court of Principal District Judge, Gayaji

Probate Case No.-97 of 2022

with the consent of all parties in order to maintain love and peace between family members. He has further stated that this document bears the signature dated 12.11.2014 of Notary Public, Jehanabad as well as stamp of the same thereon, which proves the authenticity of this document of Memorandum of Family Settlement. On his identification, said document of Memorandum of Family Settlement is marked as Exhibit-3.

(10) On the prayer of Ld. Counsel representing the applicant, death certificate of deceased testator Girja Sharma is marked as Exhibit-4 being a public document.

(11) The Ld. Counsel representing the applicant argued that an unregistered WILL, if duly executed in accordance with Indian Succession Act, 1925, is valid and enforceable. The ld. counsel further argued that the Supreme Court has time and again through various judgements reinforced this position by emphasizing that the essence of WILL's validity lies in its proper execution rather than in its registration status. He further elaborated that in this case, both attesting witnesses have been examined, who have confirmed the factum of WILL and state of mind of the testator at the time of execution of WILL. He further argued that enough opportunity and time was given to the natural heir of deceased testator in order to file reply in this proceeding, but she failed to do so even after appearing in this proceeding, which goes to suggest that she has got nothing to dispute

In The Court of Principal District Judge, Gayaji

Probate Case No.-97 of 2022

the genuineness of the WILL in question. He summed up by saying in absence of any objection by the natural heir as well as no other person from the "General Public" filed any caveat despite the publication of citations, the evidence presented in this case remained undisputed and free from suspicious circumstances. The applicant has thus clearly made out a case for granting of probate in her favour.

(12) On consideration of the evidences and submissions as aforesaid, it is found that the unregistered WILL has been duly executed by the testator in favour of the applicant and from the evidences it also appears that at the time of the execution of WILL and the testator was in sound and disposing state of mind at that time. Further, the opposite party appeared in this case on 18.06.2025, thereafter neither written statement was filed on behalf of opposite party even after having been granted sufficient opportunity nor did it ever appear again to contest this probate case, which goes to suggest that opposite party has either lost interest in this case or has nothing to say in respect of genuineness of WILL in question.

(13) In the light of above, I am of the opinion that applicant has made out a case for herself for granting of probate and is accordingly entitled for grant of probate with respect to unregistered Will dated 04.01.2016 executed in her favour by the deceased testator Girja Sharma and as such the application is allowed. Let certificate of probate be prepared accordingly.

In The Court of Principal District Judge, Gayaji
Probate Case No.-97 of 2022

(14) It is, however, made clear that granting of probate in favour of applicant, this court has only decided the genuineness of WILL and nothing more.

Dictated and corrected by

Sd/-
(M.K. Kaushik)
Principal District Judge
Gayaji
17.03.2026

Sd/-
(M.K. Kaushik)
Principal District Judge
Gayaji
17.03.2026

Date of Judgment/Order	17.03.2026
Date of reserving Judgment/Order	N/A
Uploading date	23.03.2026
Uploaded by	Steno (Vikash Kumar)