

District:Gopalganj

In the Court of District & Add. Sessions Judge-I, Gopalganj

Present:Sanjeev Kumar Singh

D.A.J.-I

Dated: 18th July 2026

Probate Case No.:11/2024

Ravi Shankar Singh S/O Bikrama Singh

R/O:-Kharharwa,P.S.-Uchakagaon,Distt.-Gopalganj.....Applicant

Versus

State of Bihar.....O.P.

Counsel for the Applicant: Sri Hari Pd. Sriwastawa,Adv.

Counsel for O.P.: Ld. G.P.

Judgement

1.The instant probate case has been filed by the applicant abovenamed under the provisions of Sections 276, Indian Succession Act,1925 praying to grant a certificate of Probate on the basis of the registered Will dated 04.01.2022, executed in his favour by his mother Sundarmati Devi, the testator .

2.Case of the applicant, in nut shell, is that the testator Sundarmati Devi, none else but his mother used to live with him at his workplace B.L.W. Varanasi. Applicant took her every care and paid regular attention of her fooding, lodging, medicines etc. Pleased with the services rendered by her son, testator Sundarmati Devi decided to transfer all her properties to him by means of executing a deed. In order to fulfill her wishes Sundarmati Devi came to Registry Office,Gopalganj on 04.01.22 after purchasing the required amount of stamp contacted the scribe to dicate the Will. Then scribe Mukesh Kumar transcribed the dictations given by testator in the form of the Will sought to be probated. This is her last will, and despite issuing citations none came forward to place any objection. Submission of the applicant is that the testator was in complete disposing mind and able to understand every pros and cons of her acts. So, this is a fit case to issue the certificate of Probate.

3.On basis of the pleading this court finds single issue before it to be decided to arrive at a logical conclusion:

Whether the Will dated 04.01.22 is a genuinely executed and attested piece of document or not ?

Findings

4.To arrive at a logical conclusion, oral as well documentary evidence available on the record is to be taken into consideration. Altogether three witnesses namely Ravi Shankar Singh, Bikrama Singh and Supriya Kumari have deposed before the court on behalf of the applicant. The evidence adduced by these witnesses is to be taken into consideration while arriving at a logical conclusion.

5.Applicant Ravi Shankar Singh states that testator Sundarmati Devi, his mother was too old and unhealthy. She lived with him at his workplace and was taken her every care by him. Pleased with his services, she decided to execute a Will in his favor regarding her own properties. In furtherance of her desire she executed the Will in question on 04.01.22 in presence of his father Bikrama Singh. At her dictation scribe Mukesh Kumar prepared the Will and testator put her finger impressions at relevant places. Thereafter Supriya Kumari put her signature as attesting witness. He deposes further that testator died on 16.11.23 at Varanasi in the course of treatment. He files original death certificate of the testator. He makes it clear that subject matter of the Will is self purchased land of his mother, and also it is her last Will.

6.A.W.2 Bikrama Singh deposes that he too had accompanied the testator to registry office while execution of Will. At behest of testator, scribe Mukesh Kumar penned down the contents and he put his signature as identifier. Apart from him, Supriya Kumari put her signature as attesting witness. He has deposed further that testator was completely healthy, physically and mentally both when she was in registry office to execute the Will. He has fully supported the applicant's case and states that it is testator's last Will.

7.A.W.3 Supriya Kumari, attesting witness of the Will too has fully supported the applicant's case. She deposes that testator Sundarmati Devi executed the Will on 04.01.22 in her presence and she put her signature at an attesting witness. She states that testator was absolutely healthy at the time of execution of Will.

8.Apart from the oral evidence certain documents too have been filed in support of the case. Original Will bearing signatures of Testator, identifier, attesting witness and deed writer has been filed by the applicant. Original death certificate of Sundarmati Devi too has been filed showing date of her death. Both these documents are marked as exhibits.

9. Prior to discussing factual aspects of the case, some legal proposition would essentially be taken into consideration. Will, as defined in section 2(h) of the Indian Succession Act, means a legal declaration of the intention of a testator with respect to his property which he desires to be carried into effect after his death. If any document does not disclose anywhere in it that it is to operate after the death of its author, then such document is not a Will. Therefore unless a document is a Will, no Probate or Letters of Administration can be granted on the basis of the Will. Probate of a Will is a legal process that is sometimes required to validate the deceased person's Will in order to his/her wishes to be carried out by an executor named in the will.

10. Section 213(1) Indian Succession Act makes it mandatory for every legatee or executor to obtain a Probate or Letters of Administration of a Will before they try to execute it. Otherwise, the executor or legatee can't establish any right in a court of law pertaining to the concerned Will and any estate mentioned therein. In case of Ishwardeo Narayan Singh Vs Kamta Devi; AIR 1954 SC 280, Hon'ble Supreme Court was pleased to hold that the "Probate Court is only concerned with whether the Will was duly executed in accordance with law and whether at the time of such execution the testator was found to be of sound and disposing mind. The question whether a particular bequest is good or bad is not within the perview of Probate Court." Meaning thereby, the jurisdiction of a Probate Court is limited to determining the genuineness of a Will. It does not have the authority to decide questions of Title or Ownership of property.

11. It would be fit to refer a celebrated decision rendered by Hon'ble Supreme Court in the case of H. Venkatachala Iyenger Vs. B.N. Thimmajamma; AIR 1959 SC 443, wherein Apex Court had clearly distinguished the nature of proof required for a testament as opposed to any other document. Its relevant portion reads as follows, "The party propounding a Will or otherwise making a claim under a Will is no doubt seeking to prove a document and in deciding how it is to be proved, we must inevitably refer to the statutory provisions that govern the proof of documents. Sections 67 and 68 of Evidence Act are relevant for this purpose. Under section 67, if a document is alleged to be signed by any person, the signature of the said person must be proved to be in his handwriting and for proving such a handwriting u/s 45 and 47 of the Act the opinion of experts and of persons acquainted with the handwriting of the person concerned are made relevant. Section 68

deals with the proof of the execution of the document required by law to be attested and it provides that such a document shall not be used as evidence until one attesting witness at least has been called for the purpose of proving its execution. Similarly, sections 59 and 63 of Indian Succession Act are also relevant. Section 59 provides that every person of sound mind, not being a minor, may dispose of his property by Will. Section 63 requires that the testator shall sign or affix his mark to the Will or it shall be signed by some other person in his presence and by his direction and that the signature or mark shall be so made that it shall appear that it was intended thereby to give effect to the writing as a Will. This section also requires that the Will shall be attested by two or more witnesses as prescribed. Thus the question as to whether the Will set up by propounder is proved to be the last Will of the testator has to be decided in the light of these provisions. Has the testator signed the Will? Did he understand the nature and effect of the dispositions in the Will? Did he put his signature to the Will knowing what it contained? Stated broadly it is the decision of these questions which determines the nature of the findings on the question of proof of the Will.”

12. In the case of **Jaswant Kaur Vs. Amrit Kaur & Ors.:(1977)1 SCC 369** Hon’ble Supreme Court has pointed out that “when a Will is shorouded in suspicion, its proof ceases to be a simple lis between the plaintiff and the defendant. What generally is an adversarial proceeding, becomes in such cases, a matter of the court’s conscience and then, the true question which arises for consideration is, whether the evidence let in by the propounder of the Will is such as would satisfy the conscience of the court that the Will was duly executed by the testator. It is impossible to reach such a satisfaction unless the party which sets up the Will offers cogent and convincing explanation with regard to any suspicious circumstance surrounding the making of the Will.”

13. In **Niranjan Umeshchandra Joshi Vs. Mrudula Jyoti Rao ; (2006)13 SCC 433** Hon’ble Supreme Court was pleased to observe in paragraph 34 that “There are several circumstances which would have been held to be described as suspicious circumstances:

- (A) When a doubt is created regarding condition of the mind of the testator despite his signature on the Will;
- (B) When the disposition appears to be unnatural or wholly unfair in the light of the relevant circumstances;

(C) Where propounder himself takes prominent part in the execution of Will which confers on him substantial benefit.”

14. In a recently decided case of **Meena Pradhan & Ors. Vs. Kamla Pradhan & Anr., (2023) 9 SCC 734**, Hon’ble Supreme Court has held that *“Suspicious Circumstances must be real, relevant and valid not mere products of a doubting mind. The determination of what constitutes a suspicious circumstance depends on the specific facts and circumstances of each case. If a Will is challenged, the onus is on the Propounder of the Will to prove its validity and execution. While dealing with the Wills tainted by suspicious circumstances, the court applies the test of Judicial Conscience that involves evaluating factors such as the testator’s awareness of the Will’s contents, consequences and nature of dispositions, the testator’s state of mind and memory at the time of execution and whether the testator acted freely.”*

15. Now it is to be seen whether the present case fulfills all the statutory requirements to grant a certificate of Probate? As repeatedly held vide the various laws laid down by Hon’ble Apex Court, ***a court dealing with the Probate proceeding is obliged to confine itself to consider the questions relating to execution and attestation of the Will and not about the title or ownership of the land in question. It is also to be seen that during entire exercise no any suspicious circumstance arises.*** In short, apart from statutory compliance, broadly it has to be proved that:

- (a) the testator signed the Will out of his own free will;
- (b) at the time of execution he had a sound state of mind;
- (c) he was aware of the nature and effect thereof and
- (d) the Will was not executed under any suspicious circumstances.

16. Learned counsel for the applicant submits that there are ample materials on the record to establish that testator was in absolutely healthy and in complete disposing mind at the time of executing the Will. She did so on her own free will in lieu of the services rendered by applicant abovenamed. Will is duly attested and all statutory compliance is made while its execution, so deserves to be granted the certificate of Probate.

17. As stated in foregoing paragraphs vide several laws laid down by Hon’ble Supreme Court, a Will is required to fulfill all the

formalities enshrined under section 63 of the Indian succession Act, that is to say:

(a). The testator shall sign or affix his mark to the Will or it shall be signed by some other person in his presence and by his direction and the said signature or affixation shall show that it was intended to give effect to the writing as Will;

(b). It is mandatory to get it attested by two or more witnesses, though no particular form of attestation is necessary;

(c). Each of the attesting witness must have seen the Testator sign or affix his mark to the Will or has seen some other person sign the Will, in the presence and by the direction of the testator, or has received from the testator a personal acknowledgement of such signatures;

(d). Each of the attesting witnesses shall sign the Will in the presence of the Testator, however, the presence of all the witnesses at same time is not required.

18. In the case at hand applicant and other witnesses have candidly deposed that Will was drafted and scribed by the deed writer (Katib) Mukesh Kumar at behest of the testator Sundarmati Devi, who got convinced with its contents after hearing the same and only then signed and put her finger marks over its different pages. Identifier and one of the witnesses namely Bikrama Singh and Supriya Kumari respectively, too have testified before the court that testator was in complete disposing mind and it is she who dictated the terms. After service of the notices against the near relatives, none turned up before the court to place any objection. Original death certificate of the Testator is marked as exhibit and so is the Will in its original form. No any suspicious circumstance has been raised regarding execution and attestation of the Will in question. All the statutory requirements enshrined U/S 63 of Succession Act are fulfilled, so this case is a fit one to be granted the Probate.

Conclusion

19. In light of the discussions made in the foregoing paragraphs and taking the factual and legal aspects of the matter into its thoughtful consideration, this court is of firm view that Testator executed the Will dated 04.01.22 in state of complete disposing mind and same is duly attested as per the relevant provisions of Succession Act.

20.As a consequence, **this court holds the Will dated 04.01.22, sought to be probated, as a genuinely executed document, not surrounded in any suspicious circumstances and it deserves grant of Probate. So, the Probate application at hand succeeds as same is allowed. Applicant abovenamed, hereby is entitled to get 'Probate Certificate' on basis of the said Will and accordingly this case is probated in his favour.**

21.Office is directed to issue a 'Certificate of Probate' in favour of the applicant Ravi Shankar Singh at the earliest after completing all sort of formalities.

(Dictated & Corrected by Me)

(Sanjeev Kumar Singh)

A.D.J.-I

Dated: 18.07.2026

(Sanjeev Kumar Singh)

A.D.J.-I

Dated: 18.07.2026