

1 OF 5 **IN THE COURT OF DISTRICT JUDGE VII DANAPUR**

Probate Case No. 258/2013

Ashutosh Kumar Abhay @ Tuntun vs. Estate of Late Chintamani Sharma

**Present: Kumar Gunjan,
District Judge-VIIth, Danapur**

Dated: 12th day of March, 2026

1. Ashutosh Kumar Abhay @ Tuntun son of Late Ram Narayan Sharma, R/o village Ahuwara, P.S. Naubatpur, District-Patna.

----Applicant

Vrs.

1. **The Estate of Chintamani Sharma**, W/O Late Ram Narayan Sharma , R/O village Ahuwara P.S. Naubatpur District Patna

-----Deceased

Learned Counsels for the petitioner: Sri Sumit Kumar,
Advocate.

JUDGMENT

1. The instant claim application has been filed by the petitioner Ashutosh Kumar Abhay @ Tuntun u/s- 276 of Indian Succession Act 1925 praying therein for grant of probate certificate of the property mentioned in the schedule I of the plaint.
2. The case of the applicant, in brief, is that the petitioner is son of testator Chintamani Sharma who was wife of late Ramnarayan Sharma. The testator has executed registered Will dated 06.12.2012 in sound state of health and mind in favour of the petitioner with respect to the properties mentioned in Schedule I of the application whereby and whereunder the testator has bequeathed all her property to the petitioner out of love and satisfaction and after being satisfied with the services rendered by the petitioner during her last years. The testator died on 01.01.20013 at Max Super Specialty Hospital Delhi. It is further pleaded that this Will was prepared on the instruction of the testator Chintamani Sharma in sound state of

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health and mind and the testator, after being satisfied with the contents of the Will, put her signature over the Will on each and every page in the presence of the attesting witnesses namely Yudhitir Sharma and Anand Bhushan and the same was registered before the Sub Registrar Danapur on 06.12.2012. It is also pleaded that the testator had two daughters namely Manju Rani and Archana Rani other than her only son namely Ashutosh Kumar Abhay @ Tuntun (petitioner).

3. General citation notice was issued calling upon near relatives and all the persons having interest in the state of the deceased, for objection, if any, before grant of Probate. The near relatives who are two daughters of the testator namely Manju Rani and Archana Rani have appeared and they have supported the case of the petitioner.

FINDINGS

4. On perusal of the case record, it appears that a total of four witnesses have been examined by the petitioner in support of his case. P.W. 2 is the petitioner Ashutosh Kumar Abhay @ Tuntun himself. He has deposed that he used to look after his mother Late Chintamani Sharma (testator) after the death of his father and later on his mother also died on 01.01.2013. He has further deposed that out of love and affection and being satisfied with the services rendered by the petitioner, the testator executed a registered Will dated 06.12.2012 in sound state of health and mind in his favour with respect to the properties mentioned in Schedule I of the plaint in the presence of witnesses. He has further deposed that the property mentioned in the Will was the purchased properties of the testator's husband, self purchased properties of the testator and also the sasurali property of the testator. He has further deposed that this Will was scribed by scribe Badrilal on the instruction of testator and typed by Typist Arbind Kumar. Thereafter the testator understood the contents of the Will and voluntarily put her signature over each page of the Will and on the request of the testator witnesses namely Yudhisthir Sharma and Anand Bhushan have also put their signature over the Will which got registered before the Sub Registrar Danapur. Yudhisthir Sharma has identified the testator at registry office. This witness has also proved the Will as **Ext. 1**.

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5. The witness namely Yudhisthir Sharma has examined as P.W. 1 and he has supported all the facts deposed by the petitioner during his evidence. Therefore those are not being reproduced or repeated for the sake of brevity. However, this witnesses has categorically stated that the testator has executed this Will dated 06.12.2012 in sound stated of health and mind in his presence and that this Will was also prepared by scribe Badrilal and typed by typist Arbind Kumar in his presence on the instruction of the testator Chintamani Sharma. He has also deposed that said Chintamani Sharma had put her signature over the Will after being satisfied with its contents. This witness has also identified his signature over the Will which has been marked as **Ext. 1/a**. Thus, this witness has duly proved the execution of the Will as per the requirement of Section 63 and 68 of the Indian Evidence Act, 1872.
6. O.P. No. 2 Manju Rani and O.P. No. 3 Archana Rani have also been examined as witnesses as O.P.W. No. 1 and 2 respectively. Both these witnesses have supported the case of the petitioner and admitted categorically that the testator used to live with the petitioner during her last days after the death of her husband and the petitioner looked after her and took care of all her needs due to which the testator was very happy and satisfied and accordingly she executed the registered Will dated 06.12.2012 in favour of the petitioner with respect to the properties mentioned in the Will. Both these witnesses have also stated that they do not have any objection if the probate was granted in favour of the petitioner with respect to the aforesaid properties and that their mother had executed this Will with their free consent.
7. The point to be determined in this case is whether the applicant has been able to prove that the will dated 06.12.2012 is genuine and has been voluntarily executed by late Chintamani Sharma in favour of Ashutosh Kumar Abhay @ Tuntun in sound state of mind and health as her last testament and whether the applicant is entitled for grant of Letter of Administration with respect to the property mentioned in schedule I of the original application?
8. It is well settled principle that a will has to be proved as per the provisions of **Indian Succession Act, Sec. 63** of which requires of will to be attested by two or more witnesses. **Section 68 of Indian Evidence Act** mandates that if a document is required by law to be

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attested, then it shall not be used as evidence until at least one attesting witness has been called for the purpose of proving its execution.

9. In the present case, the attesting witness of the will in question namely Yudhisthir Sharma has been examined as PW 1 and duly proved the aforesaid Will which is described in details in the preceding paragraphs. The petitioner as well as the O.P. No.. 2 and 3 have also supported the claim of the petitioner during their evidence which has also been described in details in the preceding paragraphs.
10. Thus from the aforesaid discussion and evidence of the witnesses it is clear that the petitioner has been able to prove that the testator Chintamani Sharma used to live with the petitioner Ashutosh Kumar Abhay @ Tuntun after death of her husband and her only son who is the petitioner, looked after her and took care of all her needs and after being satisfied with the services rendered by the petitioner, testator Chintamani Sharma has executed the Will dated 06.12.2012 in his favour bequeathing the property mentioned in Schedule I of the probate application. This Will got registered on 06.12.2012 before the Sub-Registrar Danapur. It has also been proved that this Will was executed voluntarily in presence of two witnesses, draftsman and the typist in sound state of health and mind and that this Will was the last testament of the testator Chintamani Sharma. Death certificate of the testator has also been proved to support that the testator had died on 01.01.2013. This certificate has been marked as **Ext.2**. Petitioner has also proved a Khatiyan with respect to the properties in order to prove her right over the aforesaid properties which has been marked as **Ext. 3**.
11. In view of the above discussions, evidences on record and submissions on behalf of the applicant, it is clear that the petitioner has been successful in proving that the will dated 06.12.2012 has been voluntarily executed by late Chintamani Sharma in favour of Ashutosh Kumar Abhay @ Tuntun in sound state of health and mind and after reading and understanding its contents and that it is the last testament of the testator with respect to Schedule I properties.
12. Hence, this case is hereby **allowed** and it is ordered that a certificate of probate be granted in favour of Ashutosh Kumar Abhay

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@ Tuntun with respect to the properties mentioned in Schedule I of the probate petition. With these observations, the case is disposed off. Let a probate certificate be prepared accordingly after the payment of stamp duty due, if any, and thereafter the record be consigned to the record room.

Dictated and corrected by me

Sd/-

District Judge-VII, Danapur
dt:12-03-2026

Sd/-

District Judge-VII, Danapur
dt:12-03-2026