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In the Court of Sri Santosh Kumar Tiwary
Principal District Judge, Sheikhpura.
Probate Case No. 09/2024
CNR No.- BRSP010053692024
Anita Devi vs. State of Bihar & others.

Anita Devi, W/o Sujeet Prasad
R/o Village- Purankama,
P.O.+P.S.- Sheikhpura, District – Sheikhpura.
At Present Mohalla – Bangalipar,
P.O.+P.S.- Sheikhpura, District – Sheikhpura.....Petitioner/Applicant.

Vs.

1. State of Bihar
2. The Estate of Late Bachi Devi, W/o Late Dahu Mahto,
R/o Village – Nimi, P.O.- Nimi, P.S.- Shekhopursarai, District – Sheikhpura.
3. Manju Devi, W/o Late Anek Prasad
D/o Late Bachi Devi wife of Late Dahu Mahto
R/o Sherpur, P.O.- Mohammadpur, P.S.- Asthawan, District – Nalanda.
4. Kanchan Devi, W/o Rakesh Prasad
D/o Late Bachi Devi wife of Late Dahu Mahto
R/o Village – Sarbahdi, P.O.- Sarbahdi, P.S.- Asthawan, District – Nalanda.
5. Pratima Devi, W/o Anil Mahto
D/o Late Bachi Devi wife of Late Dahu Mahto
R/o Village + P.O.- Mafo, P.S.- Mehus,
District – Sheikhpura.....Opposite parties.

For the Petitioner/Applicant :-Sri Manoj Kumar, Ld. Advocate.

For the Opposite Parties :- Sri Rabindra Prasad Sinha, Ld. Advocate.

For the State :- Sri Binod Kumar Singh, G.P.

Date of Judgment: - 20.07.2026

J U D G M E N T

1. The petitioner Anita Devi has filed this probate case U/s. 266 of the Indian Succession Act for grant of Probate of the will executed on 05.08.2010 by Late Bachi Devi wife of Late Dahu Mahto in favour of her daughter petitioner Anita Devi.
2. As per the probate petition, the case of the petitioner in brief is that one Most. Bachi Devi wife of Late Dahu Mahto, R/o Village + P.O.- Nimi, P.S.- Shekhopursarai, District – Sheikhpura was the mother of the petitioner and she died at her permanent residence at Village Nimi on 01.10.2021. Before her death, Most. Bachi Devi had duly

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executed a registered Will on 05.08.2010 in favour of her daughter, the petitioner Anita Devi, in presence of the attesting witnesses namely Rajballabh Singh S/o Late Yugeshwar Singh and Prahlad Prasad S/o Late Lakhan Mahto. Most. Bachi Devi put her left thumb impression on the said Will after fully understanding its contents and the witnesses also attested the same in presence of each other. The original registered deed of Wasiyatnama (Will) was entrusted to the deed writer Ramchandra Prasad for safe custody. The Will was registered before the Sub-Registrar, Sheikhpura as Deed No. 40, Book No. 3, Volume No. 1, Pages 295 to 302 on 05.08.2010 and was registered on the same day. Under the said Will, the petitioner Anita Devi was appointed as the executor. It is further stated that Most. Bachi Devi died on 01.10.2021 leaving behind only four daughters, namely Anita Devi, Kanchan Devi, Pratima Devi and Manju Devi, and no male issue. Her husband, the late Dahu Mahto, had passed away before her. During her old age, the petitioner Anita Devi and her husband Sujeet Kumar looked after and served Most. Bachi Devi and she remained in their care for several years. Being fully satisfied with the services rendered by the petitioner, Most. Bachi Devi voluntarily executed her last registered Will dated 05.08.2010 of Will property in favour of the petitioner out of her own free will and while she was in sound disposing state of mind, without any force, fraud, coercion or undue influence. The properties described in Schedule-I of the probate petition are situated within the territorial jurisdiction of this Court. The said registered Will is the last and final Will executed by Most. Bachi Devi and no subsequent Will regarding the Will property has been executed by her. The cause of action first arose on 05.08.2010 when the Will was executed and subsequently on 01.10.2021 when Most. Bachi Devi died. Hence, the present application has been filed for grant of probate in respect of the said registered Will.

Schedule – 1

Details of the property for which Late Bachi Devi W/o Late Dahu @ Dahu Mahto executed a Will and for which probate is being sought: Mauza- Nimi, Revenue Thana No. 10, P.S. – Shekhopur Sarai, District – Sheikhpura.

Khata No.	Plot No.	Area
481	1783	10-1/4 dec,
173	1778	6-1/2 dec.
65	1621	4-1/2 dec.
55	1234	1-1/2 dec.

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Schedule – 2

(Genealogical Table)
Late Dahu @ Dahu Mahto
/ Late Bachi Devi (wife)

/	/	/	/
Anita Devi	Kanchan Devi	Pramita Devi	Manju Devi
W/o	W/o	W/o	W/o
Sujeet Prasad	Rakesh Prasad	Anil Mahto	Late Anek Prasad

Court Fee – on 09.05.2025, a maximum Court fee of Rs. 30,000/- was deposited on behalf of the petitioner.

3. From the perusal of the record, it transpires that in the present probate case there are five opposite parties including the State of Bihar. Opposite Party Nos. 3, 4 and 5, namely Manju Devi, Kanchan Devi and Pratima Devi, appeared through learned counsel and filed a joint objection petition. In the said objection petition, they admitted that Most. Bachi Devi was their mother and that she had executed the registered Will dated 05.08.2010. They further stated that except the four daughters, there is no other near relative of Late Bachi Devi and specifically expressed that they have no objection if probate is granted in favour of the petitioner Anita Devi. The State of Bihar also appeared through learned Government Pleader. Thus, there is no contest regarding the execution of the Will by the private opposite parties.

4. From the record, it further appears that the opposite party nos. 3, 4 and 5 have not disputed the genuineness, execution or validity of the registered Will dated 05.08.2010 and have categorically supported the claim of the petitioner by filing their joint objection petition stating that they have no objection to grant of probate in favour of the petitioner. No rival claim has been set up by any person in respect of the estate of Late Bachi Devi. In view of the admission made by the private opposite parties and in absence of any challenge to the execution of the Will, the principal question which remains for consideration is whether the petitioner has proved due execution and attestation of the Will in accordance with the provisions of the Indian Succession Act and the Indian Evidence Act so as to entitle her to the grant of probate.

5. Following issues are framed to decide this probate case -

- (i). Whether the probate case is maintainable?
- (ii). Whether the "Will" dated 05.08.2010 is last Will of deceased Bachi Devi regarding the Will property?
- (iii). Whether the "Will" dated 05.08.2010 Deed No. 40 is genuine, validly executed by the deceased in sound state of her mind and body and duly attested by the two attesting

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witnesses?

(iv). Whether the petitioner/applicant is entitled for grant of probate in pursuance of the Will dated 05.08.2010?

(v). Whether the petitioner/applicant is entitled to other reliefs even not claimed by the applicant?

6. In order to prove the case, the petitioner has examined the following three witnesses –

P.W 1 – Prahlad Prasad @ Prahlad Kumar, Attesting witness of the Will.

P.W 2 – Anita Devi, Petitioner.

P.W 3 – Ram Chandra Prasad, Scribe of the Will.

7. On behalf of the petitioner, following documents have been marked as exhibit:

Ext. 1 – Signature of Prahlad Prasad on the Will.

Ext. 1/a – Deed of Will dated 05.08.2010.

Ext. 1/b – Signature of Ram Chandra Prasad on the Will.

Ext. 2 – Copy of death Certificate of Bachi Devi.

8. The opposite parties have examined the following three witnesses –

O.P.W 1 – Manju Devi (O.P. No. 3).

O.P.W 2 – Kanchan Devi (O.P. No. 4).

O.P.W 3 – Pratima Devi (O.P. No. 5).

9. No documentary evidence was produced by opposite parties.

10. P.W. 1 Prahlad Prasad @ Prahlad Kumar is one of the attesting witnesses of the Will. He has deposed in his affidavit that the present probate case has been filed for grant of probate of the registered Will dated 05.08.2010 executed by Late Bachi Devi in favour of the petitioner Anita Devi. He stated that he knew Late Bachi Devi and Late Dahu Mahto and had family relations with them. According to him, Late Bachi Devi expressed before her four daughters her desire to execute the Will in favour of the petitioner and all of them consented thereto. Thereafter, she, along with her daughters and the witnesses, went to the Registration Office, Sheikhpura, where deed writer Ram Chandra Prasad prepared the Will on her instructions. After the contents of the Will were read over and explained to Late Bachi Devi, she put her left thumb impression on every page, which was identified by Rajballabh Singh, and thereafter both attesting witnesses and the deed writer signed the Will. The Will was registered as Document No. 40 dated 05.08.2010. He identified his signature on the Will, which has been marked as Ext. 1. He further stated that Late Bachi Devi died on 01.10.2021.

During examination-in-chief, P.W. 1 identified his signature on the registered

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Will, which has been marked as Ext. 1.

During cross-examination, he stated that the Will was executed in his presence after its contents had been read over and understood by Late Bachi Devi, whose left thumb impression was identified by Rajballabh Singh. He further stated that he identifies the entire Will and that Rajballabh Singh has since died.

11. P.W. 2 Anita Devi is the petitioner. She has deposed in her affidavit that Late Dahu Mahto and Late Bachi Devi were her parents and they had only four daughters, namely Manju Devi, Anita Devi, Pratima Devi and Kanchan Devi, out of whom the remaining three sisters are opposite parties in this case. She stated that on 04.08.2010, Late Bachi Devi expressed before all her daughters her desire to bequeath her land measuring 22¼ decimals in favour of the petitioner, to which all of them consented. Thereafter, Late Bachi Devi went to the Registration Office, Sheikhpura, where deed writer Ram Chandra Prasad prepared the Will on her instructions. After its contents were read over and explained, she put her left thumb impression, which was identified by Rajballabh Singh, and thereafter Rajballabh Singh, Prahlad Prasad and the deed writer signed the Will. She identified the left thumb impression of Late Bachi Devi, the signatures of Rajballabh Singh, Prahlad Prasad and Ram Chandra Prasad on the Will, and the entire Will has been marked as Ext. 1/a. She further identified the photocopy of the death certificate of Late Bachi Devi, which has been marked as Ext. 2. She also stated that Rajballabh Singh died about five years ago.

During examination-in-chief, P.W. 2 identified the registered Will executed by Late Bachi Devi in her favour, which has been marked as Ext. 1/a. She also identified the photocopy of the death certificate of Late Bachi Devi, which has been marked as Ext. 2.

During cross-examination, she stated that the Will was executed by her mother in her presence after its contents had been read over and understood by her, that she is in possession of the property bequeathed under the Will, that Prahlad Prasad is an attesting witness, Rajballabh Singh was the identifier, who has since died, and that Ram Chandra Prasad is the deed writer.

12. P.W. 3 Ram Chandra Prasad is the deed writer of the Will. He has deposed in his affidavit that the present probate case has been filed by the petitioner Anita Devi for grant of probate of the Will executed by Late Bachi Devi in her favour. He stated that on 04.08.2010, Late Bachi Devi came to the Registration Office, Sheikhpura along with her four daughters and the witnesses Rajballabh Singh and Prahlad Prasad @ Prahlad Kumar. As he already knew Late Bachi Devi, she expressed her desire to execute a Will

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in favour of the petitioner Anita Devi and furnished the details of the properties to be bequeathed. Accordingly, he prepared the draft of the Will in Hindi as per her instructions and, after the contents were read over and explained to Late Bachi Devi in presence of her daughters and the witnesses, she put her left thumb impression on all the pages of the Will, which was identified by Rajballabh Singh. Thereafter, the other attesting witness Prahlad Prasad also signed the Will in presence of all concerned. He further stated that the Will was registered on 05.08.2010 in the Registration Office, Sheikhpura as Document No. 40. He identified his signature on the registered Will, which has been marked as Ext. 1/b, and stated that the recitals of the Will are true and correct.

During his examination-in-chief, P.W. 3 stated that the contents of his affidavit were prepared as per his instructions, read over to him and found correct by him. He further identified the registered Will scribed by him on the instructions of Most. Bachi Devi. He identified his signature on the registered Will, which has been marked as Ext. 1/b.

During cross-examination, P.W. 3 stated that he knew Most. Bachi Devi prior to the execution of the Will. He further stated that Most. Bachi Devi put her left thumb impression on each page of the Will in his presence as well as in the presence of the other witnesses and the same was identified by Rajballabh Singh, whom he also knew and who has since died. He also identified the left thumb impression of Most. Bachi Devi and stated that at the time of execution of the Will she was in good health.

13. O.P.W. 1 Manju Devi is Opposite Party No. 3 and the real sister of the petitioner. She has deposed in her affidavit that the present probate case has been filed by her sister Anita Devi for grant of probate of the registered Will dated 05.08.2010 (Document No. 40) executed by their mother Late Bachi Devi in favour of the petitioner. She stated that on 04.08.2010, Late Bachi Devi expressed before all her four daughters her desire to execute the Will in favour of Anita Devi and the other sisters, to which all of them gave their consent. Thereafter, Late Bachi Devi went to the Registration Office, Sheikhpura, along with the identifier Rajballabh Singh and witness Prahlad Prasad, where deed writer Ram Chandra Prasad prepared the draft of the Will as per her instructions. After the contents were read over and explained to Late Bachi Devi, she put her left thumb impression in presence of all her four daughters, which was identified by Rajballabh Singh, whereafter Rajballabh Singh, Prahlad Prasad and the deed writer also signed the Will. The Will was thereafter registered as Document No. 40 on 05.08.2010 at the District Registration Office, Sheikhpura. She identified the left thumb impression of

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Late Bachi Devi and the signatures appearing on the registered Will. She further stated that she has no objection if probate is granted in favour of the petitioner and that Late Bachi Devi died on 01.10.2021.

During her examination-in-chief, O.P.W. 1 stated that she and the petitioner are four sisters and they have no brother. Their father Late Dahu Mahto had predeceased their mother. She further stated that their mother divided her properties into four shares, sold one share and paid the sale proceeds to Pratima Devi, while the remaining three shares were bequeathed to the other three daughters by separate registered Wills. She reiterated that she has no objection to the grant of probate in favour of the petitioner Anita Devi.

During cross-examination, O.P.W. 1 categorically stated that she has no objection to the issuance of probate certificate in favour of the petitioner Anita Devi.

14. O.P.W. 2 Kanchan Devi is Opposite Party No. 4 and the real sister of the petitioner. She has deposed in her affidavit substantially on the same lines as O.P.W. 1. She stated that the present probate case has been filed by her sister Anita Devi for grant of probate of the registered Will dated 05.08.2010 (Document No. 40) executed by their mother Late Bachi Devi in favour of the petitioner. She further stated that before execution of the Will, Late Bachi Devi expressed before all her four daughters her desire to execute the Will, to which all of them gave their consent. Thereafter, the Will was prepared by deed writer Ram Chandra Prasad on the instructions of Late Bachi Devi, who, after its contents were read over and explained to her, put her left thumb impression thereon in presence of the witnesses and her daughters. The Will was thereafter registered as Document No. 40 on 05.08.2010 at the Registration Office, Sheikhpura. She identified the left thumb impression of Late Bachi Devi and the signatures appearing on the Will. She further stated that Late Bachi Devi died on 01.10.2021 and that she has no objection if probate is granted in favour of the petitioner.

During her examination-in-chief, O.P.W. 2 reiterated that they are four sisters and have no brother, that their father Late Dahu Mahto had predeceased their mother, that their mother had made separate registered Wills in favour of the three sisters after disposing of one share for the benefit of Pratima Devi, and that she has no objection to the grant of probate in favour of the petitioner.

During cross-examination, O.P.W. 2 categorically stated that she has no objection to the issuance of probate certificate in favour of the petitioner Anita Devi.

15. O.P.W. 3 Pratima Devi is Opposite Party No. 5 and the real sister of the petitioner. She has deposed in her affidavit substantially on the same lines as O.P.Ws. 1

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and 2. She stated that the present probate case has been filed by her sister Anita Devi for grant of probate of the registered Will dated 05.08.2010 (Document No. 40) executed by their mother Late Bachi Devi in favour of the petitioner. She further stated that before execution of the Will, Late Bachi Devi expressed before all her four daughters her desire to execute the Will, to which all of them gave their consent. Thereafter, the Will was prepared by deed writer Ram Chandra Prasad on the instructions of Late Bachi Devi, who, after its contents were read over and explained to her, put her left thumb impression thereon in presence of the witnesses and her daughters. The Will was thereafter registered as Document No. 40 on 05.08.2010 at the Registration Office, Sheikhpura. She identified the left thumb impression of Late Bachi Devi and the signatures appearing on the Will. She further stated that Late Bachi Devi died on 01.10.2021 and that she has no objection if probate is granted in favour of the petitioner.

During her examination-in-chief, O.P.W. 3 reiterated that they are four sisters and have no brother and that their father Late Dahu Mahto had predeceased their mother. She further stated that their mother divided her properties into four shares, sold one share and paid the sale proceeds to her (O.P.W. 3), while the remaining three shares were bequeathed to the other three sisters through separate registered Wills. She reiterated that she has no objection to the grant of probate in favour of the petitioner Anita Devi.

During cross-examination, O.P.W. 3 categorically stated that she has no objection to the issuance of probate certificate in favour of the petitioner Anita Devi.

16. Learned counsel appearing on behalf of the petitioner submitted that the petitioner has duly proved the execution and attestation of the registered Will dated 05.08.2010 in accordance with law. It was argued that one of the attesting witnesses, namely P.W. 1 Prahlad Prasad, has fully supported the execution and attestation of the Will and has identified his signature thereon. The scribe of the Will, P.W. 3 Ram Chandra Prasad, has also supported the execution of the Will and identified his signature on the document. The petitioner herself appeared as a witness and proved the Will as well as the death certificate of the testator. It was further submitted that all the legal heirs of Late Bachi Devi, namely Opposite Party Nos. 3, 4 and 5, have categorically admitted the execution of the registered Will and have specifically stated on oath that they have no objection if probate is granted in favour of the petitioner. It was, therefore, prayed that the probate case be allowed.

17. On the other hand, learned Government Pleader appearing on behalf of the State submitted that the matter may be decided in accordance with law on the basis of the

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evidence available on the record.

18. Arguments on behalf of the petitioner were concluded on 15.05.2026, and arguments on behalf of the opposite party were concluded on 24.06.2026. Having heard the arguments of both parties and upon perusal of the pleadings, oral and documentary evidence available on the record, this Court proceeds to decide the issues framed hereinbelow.

FINDINGS

19. The main issues for determination in a probate proceeding generally relate to the genuineness and legal validity of the Will and not to complicated questions of title. The Probate Court mainly examines the following points:-

(i). Whether the Will was duly executed?

* Whether testator signed or affixed thumb impression on the Will?

* Whether at least two attesting witnesses properly attested the Will?

(ii). Whether the testator had testamentary capacity?

* Whether the testator was of sound disposing mind at the time of execution?

* Whether he understood the nature & effect after Will?

(iii). Whether the Will was executed voluntarily?

* There was coercion, fraud, undue influence?

(iv). Whether suspicious circumstances exist?

(v). Whether the Will in question is last Will?

A Probate Court ordinarily does not decide title or ownership disputes relating to property bequeathed. It whether decide the Will is genuine and capable to execution.

20. **Issue Nos. (i) to (iv):**— Since all these issues are interconnected, they are taken up together for the sake of convenience.

The present application has been filed under the provisions of the Indian Succession Act seeking grant of probate in respect of the registered Will dated 05.08.2010 executed by Late Bachi Devi. The death of the testator Late Bachi Devi has been proved by Ext. 2. It is also admitted by all the parties that she died on 01.10.2021. It is further undisputed that she left behind only four daughters, namely Anita Devi, Manju Devi, Kanchan Devi and Pratima Devi, and that her husband Late Dahu Mahto had passed away before her.

The registered Will dated 05.08.2010 has been brought on record as Ext. 1/a. P.W. 1 Prahlad Prasad, one of the attesting witnesses of the Will, has fully supported the execution and attestation of the Will. He has specifically deposed that the contents of

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the Will were read over and explained to Late Bachi Devi, whereafter she put her left thumb impression on the Will in his presence and in the presence of the other attesting witness. He has also identified his signature on the Will, which has been marked as Ext. 1. Nothing has been elicited in his cross-examination to create any doubt regarding the due execution or attestation of the Will. The testimony of P.W. 1 finds complete corroboration from the evidence of P.W. 3 Ram Chandra Prasad, the deed writer of the Will. He has deposed that the Will was drafted by him as per the instructions of Late Bachi Devi after she furnished the particulars of the properties. He has further stated that after the contents of the Will were read over and explained to her, she admitted the same to be correct and put her left thumb impression on every page in the presence of the witnesses. He has also identified his signature on the Will, which has been marked as Ext. 1/b. He has further stated that the Will was thereafter registered in the Registration Office, Sheikhpura. The petitioner, P.W. 2 Anita Devi, has also supported the prosecution case in all material particulars. She has identified the registered Will as well as the thumb impression of her mother and the signatures of the attesting witnesses and the deed writer. She has also proved the death certificate of the testatrix as Ext. 2.

Significantly, Opposite Party Nos. 3, 4 and 5, who are the real sisters of the petitioner and the only other legal heirs of Late Bachi Devi, have appeared to testify as O.P.W. 1, 2 and 3. All of them have unequivocally admitted the execution of the registered Will by their mother. They have consistently deposed that they have no objection if probate is granted in favour of the petitioner. Their evidence further establishes that there is no dispute amongst the legal heirs regarding the execution or genuineness of the Will. No contesting claimant has come forward to challenge the will.

The Will in question is a registered Will. There is no evidence on record to indicate that the Will was obtained by fraud, coercion, undue influence or misrepresentation. There is also nothing to suggest that Late Bachi Devi was not in a sound disposing state of mind at the time of execution of the Will. On the contrary, the consistent evidence of P.Ws. 1, 2 and 3 clearly establishes that she voluntarily executed the registered Will after understanding its contents.

Accordingly, this Court is satisfied that the registered Will dated 05.08.2010 has been duly proved in accordance with law and that the petitioner is entitled to the grant of probate in respect thereof. Hence, Issue Nos. (i), (ii), (iii) and (iv) are decided in favour of the petitioner.

21. Issue No. (v):- In view of the findings recorded on Issue Nos. (i) to (iv), the petitioner is entitled to the relief sought in the present application. No other relief

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remains to be considered.

Accordingly, in view of the discussions made hereinabove, it is

ORDERED

22. That this probate case is allowed. Probate is granted to the applicant Anita Devi in respect of property described in the Will dated 05.08.2010 executed in her favour. Office is directed to prepare probate certificate and issue the same in favour of the petitioner.

(Dictated & corrected)

Santosh Kumar Tiwary
Principal District Judge
Sheikhpura.
20.07.2026

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Principal District Judge
Sheikhpura.
20.07.2026

Date of Judgment / order	20.07.2026
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