

IN THE COURT OF PRINCIPAL DISTRICT JUDGE, SIWAN

Probate Case No. 13/2025

Registration No. 13/2025

- (1) **Sonu Mishra @ Sonu Kumar Mishra** aged about 39 years
(2) **Monu Mishra** aged about 29 years. Both S/o Shashikant Mishra, resident of village Barharia, P.S. Barharia, District-Siwan..... **Applicants**

Versus

- (1) **Musmat Nirmala Kuwar W/o Late Shashikant Mishra & 7 Others**, *resident of village Barharia, P.S. Barharia, District- Siwan.....* **O.P**

For the Applicant : Sri Kameshwar Tiwari, **Ld. Advocate**

Date of Order : 14th Day of July, 2026

Present : Motish Kumar Singh

Principal District & Sessions Judge, Siwan

ORDER

1. The applicant Sonu Mishra @ Sonu Kumar Mishra and Monu Mishra both son of Late Shashikant Mishra have filed this probate case with prayer to granting probate of the Will dated 12-02-2021 executed by Brajbhushan Mishra in their favor.
2. The brief fact of the case is that Late Dukhi Mishra was the ancestor of the testator. Late Dukhi Mishra died left behind two sons Vindawan Mishra and Vindhychal Mishra. Vindhychal Mishra died left behind one son namely Raghunandan Mishra. Raghunandan Mishra Left behind Brijbhushan Mishra @ Nathuni Mishra (Testator). Secondly, Vindawan Mishra died left behind two sons namely Kamta Mishra and Sudama Mishra. Sudama Mishra died left behind two sons Ramakant Mishra and Shashikant Mishra. Shashikant Mishra died left behind two sons and one

daughter namely Sonu Mishra, Monu Mishra (applicants) and Tanu Kumari. Testator Brijbhushan Mishra was retired from Indian Postal service and he died childless. It is further asserted that Applicants are nephews in relation of Brijbhushan Mishra and he was being looked after and served by the applicants, as such Brijbhushan Mishra, being pleased with the services of the applicants, executed a registered deed of will on 12-02-2021 in favor of the applicants Sonu Mishra and Monu Mishra. It is further asserted that on 12-02-2021 the testator Brijbhushan Mishra was physically and mentally fit. Upon his instructions a deed of Will was prepared by scribe Anjani Kumar Srivastava. After completion of the deed of Will, the scribe read-over the contents of the Will before the testator Brijbhushan Mishra and being satisfied with the contents, he put his thumb impression of left hand over the Will. The Will presented before the Sub-registrar, Siwan on 12-02-2021 and got registered at the office of Sub-Registrar Siwan in presence of the witnesses Anil Kumar and Rajnish Kumar Pandey. The attesting witnesses also put their signatures and admitted the execution of Will. It is further asserted that Brijbhushan Mishra (testator) died on 06-11-2024 at his parental house. After death of Brijbhushan Mishra (Testator), the applicants were entitled of entire properties of Brijbhushan Mishra (testator). It is further asserted that the applicants are desirous of obtaining grant of probate of the said last Will executed on 12-02-2021 by the late Brijbhushan Mishra and under seal of this court, the applicants therefore, pray to probate of the last Will and testament dated 12-02-2021 in their favor.

3. After depositing the probate duty, notices through NSTEP were sent to the O.P. In-spite of completion of all the

formalities of notices, no one have been turned up on behalf of the O.P, therefore, The court has also initiated citations to the state jurisdiction of stakeholders of the deceased. But none of the potential stakeholder who had been served through affixation on the notice board of Gram Panchayat Badharia, Office of Circle Officer, Badharia and its notice board, Gram Chauraha of deceased Badharia, House of deceased Late Brijbhushan Mishra, Office of the District Magistrate, Siwan and its notice board, The court of Munsift-I, Siwan had turned-up. Service report has been submitted by the Nazarat which was found satisfactory.

4. On the basis of the prayer as sought by the applicant the following points are to be determined for adjudication.

- I. Whether the deed of Will dated 12-02-2021 was executed by Brijbhushan Mishra?
- II. Whether the applicants have succeeded to prove valid and proper execution of deed of Will?

5. In order to establish their claim, the applicant examined altogether four witnesses, who are namely A.W. 1 Monu Mishra (Applicant No. 2), A.W. 2 Rajnish Kumar Pandey (Attesting witness) A.W 3 Anil Kumar (Attesting witness), and A.W. 4 Sonu Mishra (Applicant No. 1).

6. A.W. 1 (Applicant No. 2), filed his examination-in-chief on affidavit and he fully corroborated his case regarding his claim in the plaint. He categorically stated that testator Brijbhushan Mishra was their elder uncle and he further asserted that he had no issue either male or female so as result he was looking-after his elder uncle at their best. Being pleased with their services rendered, Brijbhushan Mishra @ Nathuni Mishra executed the deed of Will with his free consent in their favor on 12-02-2021. After death of the

testator they have come in peaceful possession of entire properties of Will. They performed all the funeral rites of Late Brijbhushan Mishra @ Nathuni Mishra. *On court question*, He stated that he was physically and mentally fit at the time of execution of Will.

7. A.W. 2 Rajnish Kumar Pandey is the attesting witness. He also filed his examination-in-chief on affidavit in which he categorically supported the version of the applicants. He further stated that Brijbhushan Mishra @ Nathuni Mishra executed the deed of Will on 12-02-2021, A deed of Will was prepared on the instruction of Brijbhushan Mishra @ Nathuni Mishra (testator) by the scribe Anjani Kumar. After completion of the Will scribe read over the contents of Will and found correct, due to age factor his hand was shaking and not able to make signature so, he put his thumb impression of left hand. He put his signature on it as attesting witness. *On Court question* that Brijbhushan has died in the year 2024, the Deed of Will was written before me.
8. A.W. 3 Anil Kumar who is also the attesting witness. He also filed his examination-in-chief on affidavit in which he also categorically supported the version of the applicants. He further stated that he known to the testator Brijbhushan Mishra as co-villager, his wife was died in the prime of life. He was a educated person and retired from Indian Post Office service. He was looked after by the applicants and as result he was executed the deed of Will on 12-02-2021 in favor of his nephews applicants. *On Court question*, he stated that name of testator Brijbhushan Mishra was also known as Nathuni Mishra, Brijbhushan Mishra was physically and mentally fit at the time of execution of Will. The Will was

executed in favor of cousin nephews Sonu Misha and Monu Mishra. He also put his signature on it as attesting witness.

9. A.W. 4 Sonu Mishra (Applicant No. 1) He also filed his examination-in-chief on affidavit in which he also categorically supported the version of the applicant No. 2. *On Court question*, he stated that this Will was executed in their favor by his elder uncle Brijbhushan Mishra, he was childless, his wife was died before about three decades. He was physically and mentally fit at the time of execution of Will.

10. Besides oral evidence, following documents filed on behalf of the applicants were exhibited as:

- (a) Ext-1: Original deed of Will.
- (b) Ext-2: Death Certificate of Brijbhushan Mishra
- (c) Ext-3: Khata No. 10
- (d) Ext-3a: Khata No. 425
- (e) Ext-3b: Khata No. 507
- (f) Ext-3c: Khata No. 523
- (g) Ext-3d: Khata No. 749
- (h) Ext-3e: Khata No. 6
- (i) Ext-3f: Khata No. 329
- (j) Ext-3g: Khata No. 459
- (k) Ext-3h: Khata No. 590
- (l) Ext-3i: Khata No. 665
- (m) Ext-3: Khata No. 726

11. Considering all the facts and circumstances of the case and after analyzing the oral evidence as well as documentary evidences as brought on record by the applicant, this court finds that the applicants have duly proved that the Will was duly and validly executed by Late Brijbhushan Mishra @ Nathuni Mishra without any duress and undue influence in sound mental and physical health. Thus, in view of the aforesaid facts, this court holds that there is no impediments or hindrance in granting probate in favor of the applicants, accordingly present probate

case is hereby **allowed**. The Will dated 12-02-2021 executed in favor of the applicants Sonu Mishra and Monu Mishra is hereby stand probated.

Office is directed to issue probate certificate to the applicant in prescribed format.

Office is further directed to consign the record of this case after due compliance.

(Dictated)

(Motish Kumar Singh)
Principal District Judge, Siwan
14-07-2026