

CIVIL MISC. APPLICATION NO.02/2025.

ORDER BELOW EXH.1

- (1) Heard learned advocate appearing on behalf of the applicant. Read this application and evidence on record. Applicant has filed present application under Section 276 of the Indian Succession Act, 1925. It is the case of the applicant that the father of the applicant, Patel Ranchhodbhai Narayandas, expired on 29/12/2019 at Unjha, Ta. Unjha, Dist. Mehsana. The deceased had executed his last and final Will dated 08/07/2015, a copy whereof is produced herewith and the original Will shall be produced before this Hon'ble Court as and when required. The said Will was executed by the deceased in presence of witnesses and was duly signed by him, and the same was attested by two witnesses namely (1) Patel Dashrathbhai Babulal, resident of Unjha and (2) Patel Jatinkumar Prakashbhai, resident of Unjha, and the said Will was duly registered on 08/07/2015. It is further the case of the applicant that the deceased Patel Ranchhodbhai Narayandas was the owner of properties, details whereof are as under: agricultural lands situated at village Kamli bearing Revenue Survey No. 763/2 paikee 2, new Revenue Survey No. 2065, admeasuring 0-04-48 hectares (0-20 gunthas), valued at Rs. 30,000/-. Further, land bearing Revenue Survey No. 770 paikee 1, new Revenue Survey

No. 2080, admeasuring 0-35-59 hectares (2-12 gunthas), valued at Rs.1,31,000/-, wherein the applicant has an undivided share. Additionally, land bearing Revenue Survey No. 500 paikee 2, new Revenue Survey No. 3973, admeasuring 0-38-04 hectares (4-12 gunthas), valued at Rs. 6,39,000/-, and land bearing Revenue Survey No. 502 paikee 2, new Revenue Survey No. 3982, admeasuring 0-21-74 hectares (1-65 gunthas), valued at Rs. 3,65,000/-, are also included in the said Schedule., and also non-agricultural property situated at Unjha bearing Revenue Survey No. 8 paikee, comprising of a constructed house bearing Municipal Census No. 5/3/30, admeasuring about 62-71 sq. meters, having an approximate market value of Rs. 12,00,000/-. The total value of the said properties is approximately Rs. 23,65,000/-. It is further stated that the aforesaid properties are as mentioned in the Will and if any other properties are found, the applicant shall administer the same in accordance with the directions contained in the Will and shall disclose the same before this Hon'ble Court as and when required. The deceased had appointed the applicant as executor of the Will. It is further the case of the applicant that the properties are situated at village Kamli and Unjha, Ta. Unjha, Dist. Mehsana, and therefore this Hon'ble Court has jurisdiction to entertain and decide the present application. The near relatives and legal heirs of the deceased are (1) Patel Savitaben, daughter of the deceased and wife of Patel Laxmanbhai Ishwarbhai, residing at Unjha, and (2) the applicant himself (Patel

Arvinbhai Ranchhodbhai), and except them, no other legal heirs are surviving. It is further submitted that as per Section 276 of the Indian Succession Act, there is no limitation for filing the present application. The applicant has affixed Court Fee Stamp of Rs. 100/- and undertakes to pay requisite Court fees as per law. The applicant has not filed any other application for Probate before any other Court. By filing the present application, the applicant has prayed that Probate of the Will dated 08/07/2015 executed by the deceased Patel Ranchhodbhai Narayandas be granted in favour of the applicant in respect of the aforesaid properties and any other properties belonging to the deceased, and for such other reliefs as this Hon'ble Court may deem fit and proper.

- (2) In support of his case, the applicant has produced the copy of registered Will dated 08/07/2015 executed by deceased Patel Ranchhodbhai Narayandas at Exh.11, the Death Certificate of Patel Ranchhodbhai Narayandas at Exh.14, and the Death Certificate of Patel Pashiben Ranchhodbhai at Exh.15, along with the certified copy of Pedhinama issued by Talati, Unjha at Exh.16. The applicant has further produced copies of Sale Deeds at Exh.12 and Exh.13 in respect of the properties of the deceased, and also produced Village Form No. 7/12 extracts of Revenue Survey Nos. 3973 and 3982 of village Unjha at Exh.17 and Exh.18, as well as Village Form No. 7/12 extracts of Revenue Survey Nos. 2065 and 2080 of

village Kamli, Ta. Unjha at Exh.19 and Exh.20, thereby substantiating his case with relevant documentary evidence.

- (3) In pursuance of this application for obtaining Probate Certificate, a public notice inviting objections, if any, against the grant of this application was issued in daily local newspaper "Sandesh". The bill of publication and copy of the newspaper are produced at Mark 6/1 and Mark 6/2. Neither anyone appeared nor filed any objections against granting of this application.
- (4) The applicant has filed his final affidavit at Exh.21 and has deposed on oath the same facts as stated in the application Exh.1. The witness Patel Jatinkumar Prakashbhai has been examined at Exh.22, and the other attesting witness Patel Dashrathbhai Babulal is also named as a witness to the Will. It is stated that the deceased Patel Ranchhodbhai Narayandas had executed the Will in their presence, and the witness Patel Jatinkumar Prakashbhai has deposed on oath that the deceased had signed the Will in his presence.
- (5) According to the applicant, deceased Patel Ranchhodbhai Narayandas had executed a WILL on 08/07/2015, bequeathing his above referred properties in favour of the applicant. Patel Dashrathbhai Babulal and Patel Jatinkumar Prakashbhai are the attesting witnesses of the said WILL. The witness Patel Jatinkumar Prakashbhai

has been examined at Exh.22 and has deposed that the deceased had executed the WILL in his presence and had put his signature, and that he has also signed the WILL as a witness and has knowledge about the same, which is produced on record. It is found from the plain reading of the WILL that the testator has given rights to enjoy the properties as stated in the WILL to the applicant with right of alienation. Section 68 of the Evidence Act stipulates that to prove a WILL, at least one attesting witness has to be examined. In the present case, one of the attesting witnesses has been examined at Exh.22. The WILL is in writing, signed by the testator and attested by two witnesses as required under Section 63 of the Indian Succession Act. The witness has stated in his deposition that the deceased had executed and signed the WILL in his presence while being in a sound and disposing state of mind and had put his signature voluntarily. Such evidence has been produced by the applicant. No one has challenged the WILL before this Court. Hence, the WILL is proved accordingly.

- (6) On going through the record, particularly the Village Form No. 7/12 extracts produced at Exh.17 to Exh.20. As per the contents of the Will, the daughter of the deceased, Savitaben, is married and residing at her matrimonial home, and it is stated therein that whatever was to be given to her by way of “kariyavar” has already been given. It is further stated in the affidavit vide exhibit 21 that Patel Arvinbhai Ranchhodbhai is the sole heir of the deceased

and that there is no other heir, and this fact is also specifically mentioned in the Will executed by the deceased.

- (7) On going through the record, it appears that no person has come forward to claim any right, title or interest in the properties of the deceased. It is further found that a public notice regarding the present application was published in the daily newspaper "Sandesh," which is produced on record, and despite such publication, no one has filed any objection till date. In these circumstances, it appears that no other person has any right, title or interest in the properties of the deceased, otherwise they would have come forward and objected to the present application.
- (8) In view of the above discussion, it becomes clear that, deceased Patel Ranchhodbhai Narayandas had executed the WILL in sound and disposing state of mind and in the presence of the witnesses. The witnesses have also corroborated this fact in their affidavits. Therefore, the applicant has proved the due execution of the WILL produced at Ex-11, wherein deceased has intended to assign all his properties to the applicant. Patel Ranchhodbhai Narayandas has died, his death certificate is produced at Ex-14, which shows that he has died on 29.12.2019 and at the time of his death, he was residing at Unjha, Ta. Unjha, Dist. Mahesana. The applicant has declared that the total value of these properties is Twenty

Three Lakhs Sixty Five Thousand by his affidavit at Ex-21. Therefore, I come to the conclusion that, there are no impediments in granting the Probate in favour of the applicant, under Section 276 of the Indian Succession Act, 1925. Hence, in the interest of justice, I pass following final order :-

<<< ORDER >>>

The present application is allowed.

On payment of requisite Court Fee Stamps, the Probate Certificate with the copy of the Will be issued in the name of applicant **Patel Arvindhbai Ranchhodbhai, residing at Navu Ganeshpura, Baharmadh, near Netaji Nagar Road, Unjha, Ta. Unjha, Dist. Mahesana** in respect of the properties mentioned in this application. Court Fee Stamps be paid on value of Rs.23,65,000/- (Rupees Twenty Three Lakhs Sixty Five Thousand only).

The applicant is also directed to furnish P.R. Bonds and simple sureties to the amount mentioned. Signed and pronounced in the open Court on 25th Day of March, 2026.

Date : 25.03.2026

Place : Unjha

(Devindrakumar Ashokkumar Raval)

Principal Senior Civil Judge,

Unjha

[U. I. C. No. GJ-01095]