
(2023) 08 PAT CK 0070
In the Patna High Court
Case No : Test Case No. 15 Of 2018

In The Goods Of Late Chandrashekhar Kumar @ Shekhar
Kumar

APPELLANT

Vs

Ram Lal Gurda

RESPONDENT

Date of Decision : 24-08-2023

Acts Referred:

Citation : (2023) 08 PAT CK 0070

Hon'ble Judges : Sunil Dutta Mishra, J

Bench : Single Bench

Advocate : Ray Saurabh Nath, Manjari Nath, Shalini Sinha

Final Decision : Allowed

Judgement

1. Heard learned counsel for the applicants.
2. The present Testamentary Case has been filed by the above mentioned three applicants for grant of Letters of Administration of registered will dated 23.02.2018 executed by Late Chandrashekhar Kumar @ Shekhar Kumar in the capacity of legatee and beneficiary under the Will dated 23.02.2018.
3. Late Chandrashekhar Kumar @ Shekhar Kumar (hereinafter referred to as 'Testator') was governed by Mitakshara School of Law and had his place of abode in his ancestral house in Gaya. The Testator remained unmarried till his death and his mother predeceased him. Being only child of his parents he is survived by his father namely Ram Lal Gurda (applicant No. 1). The Testator got service in Tata Motors in Lucknow. However, he fell sick due to cancer. He was treated at Popular Hospital, Varanasi, Uttar Pradesh where he died on 25.02.2018.
4. While under going treatment of cancer at Varanasi, U.P., he executed a will dated 23.02.2018 which was registered on the same date on Commission in favour of three legatee and beneficiary who are applicants herein including his father (Ram Lal Gurda) and cousin brother (Neeraj Kumar). The Testator had some savings in various Bank Accounts situated at Lucknow and Varanasi

amounting to Rs. 4,10,92,302.00/- (Rupees four Crore Ten Lakhs Ninety Two Thousand Three Hundred Two) only. The Testator had bequeathed his movable property (cash) in favour of his father Ram Lal Gurda (applicant No.1) as fifty per cent (50%) of the aforesaid amount, twenty per cent (20%) in favour of cousin brother Neeraj Kumar (applicant No. 2) and thirty per cent (30%) in favour of Awadh Narayan Singh (applicant No.3) with regard to property standing in his name as mentioned in para-9 of main application. The Testator executed his last Will on 23.02.2018 without experiencing any outside pressure or coercion in presence of two attesting witnesses namely Pankaj Kumar Singh son of Awadh Narayan Singh (Attesting witness No. 1) and Shashank Singh son of Sheetla Prasad Singh (Attesting witness No.2). The Will was scribed by Sahdeo Yadav, Advocate as per the oral directions of Testator. The Testator, two attesting witnesses and scribe signed on the Will at the same time in presence of each other on 23.02.2018. The Will was got registered on the same date i.e. 23.02.2018 on Commission before Deputy Registrar Sadar-II Incharge, Varanasi, U.P.

5. After institution of present case on 04.09.2018, general citation were issued in two local daily news papers namely 'The Times of India' (English) and 'Prabhat Khabar' (Hindi) both on 27.12.2018 in their respective Gaya editions, both having wide circulation in the area around Gaya and Jehanabad districts of Bihar. As the sole surviving heir of Testator being his father only who is the applicant No.1 herein, the process of Special Citation to near relatives was dispensed with vide order dated 13.12.2018. As no one appeared to contest the case by filing his caveat/objection, the present case proceeded as uncontested matter.

6. Altogether four witnesses were examined by the applicants to support their case. During recording of deposition of witnesses, entire original Will dated 23.02.2018 was marked as Exhibited-1, the signature of Testator at every page of the Will was marked as Exhibit-2 (series), the signature of Attesting Witness (A.W.)-1 Pankaj Kumar Singh at page -9 of the Will was marked as Exhibit -3, the signature of Sahdev Yadav (scribe) at page -11 of the Will was marked as Exhibit-4 and signature of Attesting Witness (A.W.) - 2 Shashank Singh at page-10 of the Will was marked as Exhibit-5.

7. During examination of A.W. -1 Pankaj Kumar Singh supported the case of applicants and stated that the Testator used to work at Lucknow, but his treatment for cancer was carried at Varanasi and they used to visit regularly during his treatment, and he took care of him during his treatment. During his treatment he had executed his last Will dated 23.02.2018. He further stated that the contents of Will was read over and explained to the Testator and after understanding the contents of Will, the Testator put his signature at the bottom of the Will in his presence. The witness further stated that he also put his signature over the Will on the request of Testator. The testator had good health at the time of execution of Will. No force or coercion was applied to him at the time of signing the will. The A.W.-1 identified the original Will as well as the

signature of Testator at every page of the Will as also the own signature at page -9 of the Will which is marked as Exhibit -1, 2 (series) and 3 respectively. Upon Court question the witness further stated that Testator was mentally as well as physically fit at the time of execution of the Will. Upon further question of the Court, A.W.-1 stated that he has no knowledge as to Testator had executed any other Will except the present one.

8. During the examination of A.W.-2 Sahdev Yadav, he stated that he had drafted the Will for the Testator as per the Testator's instruction and desire. The Testator after reading the contents executed the Will in his presence and in presence of the witnesses Pankaj Kumar Singh and Shashank Singh who had also put their signature on the Will in his presence and in the presence of Testator. The witness further stated that entire proceeding of execution was done in his presence. The witness identified the Will as well as signatures of Testator and his own signature upon the Will at page – 11 which was marked as Exhibit -4. Upon Court question the witness further stated that the Testator was physically and mentally fit at the time of Execution of the Will.

9. During examination of A.W.-3 Ram Lal Gurda he stated that he is the father of Testator who used to stay with heirs and the testator died at Varanasi on 25.02.2018 unmarried. He has filed this case for Letter of Administration. The Will was executed by the Testator on 23.02.2018 who was his only son. The witness identified the original Will as well as signature of Testator over the Will.

10. During examination of A.W.4, Shashank Singh stated that the Testator had executed the Will dated 23.02.2018 in his presence and in presence of Pankaj Kumar Singh and Sahdev Yadav after fully understanding the contents of the Will without experiencing any force or coercion. He further stated that the Testator was having good mental condition at the time of execution of the Will. He further stated that the Will dated 23.02.2018 was registered at Varanasi, Uttar Pradesh on the same day. The witness also identified the original Will (Exhibit-1) as also his own signature at page – 10 of the Will (Exhibit-5).

11. Having heard learned counsel for the applicants and after going through the original Will dated 23.02.2018 executed by Late Chandrashekhar Kumar @ Shekhar Kumar and the depositions of aforesaid four witnesses, this Court is of the view that the Testator had voluntarily executed the Will dated 23.02.2018 in presence of two attesting witnesses namely Pankaj Kumar Singh and Shashank Singh and the scribe Sahdev Yadav in his sound state of body and mind without any external pressure or coercion after understanding the contents of the Will in favour of applicants.

12. Accordingly, this application is allowed. Let the Letters of Administration of the Will dated 23.02.2018 executed by Late Chandrashekhar Kumar @ Shekhar Kumar be issued in favour of three applicants of the case with a copy of a Will annexed thereof, which will have effect throughout the India.