



2025:DHC:9972



\$-O-

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

BEFORE

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

+ **TEST.CAS. 4/1987 and CCP(O) 26/2015**

SMT. V.PRABHA THROUGH LRS

1. SMT. MADHULIKA TRIPATHI

W/O MR. . HARISH TRIPATHI,
R/O HOUSE NO: C-54,
KAILASH APARTMENTS,
LALA LAJPAT RAI MARG,
NEAR KAILASH COLONY METRO STATION,
KAILASH COLONY, GREATER KAILASH,
SOUTH DELHI, DELHI- 110048

2. CAPT VIKRAM KUMAR SHARMA

@ CAPT. VIKRAM SHARMA

S/O VISHNU DUTT SHARMA
R/O HOUSE NO. 504, DAISY TOWER,
BOLLYWOOD HEIGHTS, DHAKAULI ROAD,
PEER MUCHALLA, ZIRAKPUR, DHAKAULI, S.A.S
NAGAR(MOHALI), PUNJAB-140603

3. MR. HARISHTRIPATHI,

S/O BRIG. K N TRIPATHI,
R/O 18 GOLIMAR GARDEN,
JAIPUR, RAJASTHAN.

.....PETITIONERS



2025:DHC:9972



Through: Dr. Meenakshi Kalra, Mr. S.N. Kalra,
Mr. Gade Meghana, Mr. Kamal, Ms.
Anjali Chaudhary, Ms. Sakshi Gupta,
Advs. with Madhulika Tripathi in
Person.

versus

1. THE STATE

**2. SMT. SAVITA KUMARI (SINCE DECEASED)
THROUGH L.RS**

A. MR. PRABHTESH PRATAP SINGH
R/O A-301, GREEN TERRACE,
KARAN PARK ROAD, ADAJAN,
SURAT, GUJARAT- 395009
(ALREADY APPEARING IN HIS INDIVIDUAL
CAPACITY AS RESPONDENT NO. 4)

B. MR. PRABHAN PRATAP SINGH
R/O KOTHI KATESAR CASTLE,
(NEAR ACADEMY), MUSSORIE,
UTTARAKHAND.

3. MR. PRABHAKAR PRATAP SINGH
(PRE DECEASED SON OF LATE MRS. SAVITA KUMARI)
THROUGH L.R

A. MR. PRABHAN PRATAP SINGH
R/O KOTHI KATESAR CASTLE,
(NEAR ACADEMY), MUSSORIE,
UTTARAKHAND.

4. MR. PRABHTESH PRATAP SINGH
R/O A-301, GREEN TERRACE,
KARAN PARK ROAD, ADAJAN,
SURAT, GUJARAT- 395009.

5. MR. NAROTTAM KUMAR



2025:DHC:9972



S/O SH. SHIV PRASAD
R/O VILLAGE SHYAMGARH
DISTRICT SEEKAR,
RAJASTHAN

.....RESPONDENTS

Through: Ms. Avni Singh, Panel Counsel for R-1.
Mr. Rishi Matoliya and Ms. Achal Singh Bule Advs for R-5.
Ms. Francesca Kapur, Adv. for R-2-4.

%

Reserved on: 10.10.2025

Pronounced on: 12.11.2025

JUDGMENT

“It is crucial to understand that the wheels of justice must not merely turn, they must turn without friction, without bringing it to a grinding halt due to unwarranted delay.”

The aforesaid observation of the Supreme Court, in its decision in ***Yashpal Jain v. Sushila Devi and Others***,¹ aptly captures a malady that, if left unchecked, threatens to erode the public’s faith in the justice delivery system itself. The present case, pending since the year 1987, unfortunately exemplifies that very friction which the Court cautioned against.

2. It has taken thirty-eight long years for the final adjudication to take place. During this prolonged course, most of the original parties have passed away, and numerous counsels have changed.

3. The justice delivery system functions on mutual trust between the

¹ 2023 INSC 948



Bar, the Bench, and the parties. Each stakeholder, the litigant, the counsel, and the Court, bear a shared responsibility towards upholding its integrity. Any lapse diminishes confidence in the system as a whole.

4. The delay, upon perusal of the case record, can be attributed to various factors, including the conduct of the parties. Such delay not only clogs the justice delivery system, but also drags the parties into protracted litigation. It also gives scope for administrative lapses, ultimately, to the detriment of litigants themselves. Therefore, it is in the best interests of all stakeholders of the judicial system to make their best endeavour towards speedy disposal of their cases.

5. The instant petition was initially filed by Smt. V. Prabha, under Section 276 of the Indian Succession Act, 1925, (*hereinafter referred to as the Succession Act*) for the grant of probate in respect of the Will dated 04.11.1985 (*hereinafter referred to as the Will*) executed by late Mr. Pratap Bhan Prakash Singh (*hereinafter referred to as the testator*). The testator was an ex-Taluqdar of Katesar-Nabi Nagar Estate situated in Sitapur, Uttar Pradesh, and ex-Jagirdar of Thikana Shamgarh, situated in Sikar, Rajasthan. The properties bequeathed through the aforesaid instrument to various persons are claimed to be the self-acquired properties of the testator.

6. The original petitioner, Smt. V. Prabha, had passed away on 15.09.2020, pending disposal of the petition. Subsequently, her legal representatives, being her daughter, Smt. Madhulika Tripathi and her son, Capt. Vikram Kumar Sharma @ Capt. Vikram Sharma were arrayed as petitioners in her place *vide* order of the concerned Joint Registrar, dated 21.01.2021.

7. Subsequent to the same, the petitioners herein filed an application



under Order VI Rule 17 read with Section 151 of the Civil Procedure Code, 1908 (*hereinafter referred to as the CPC*) and Section 232 of Succession Act *vide* which the petition was sought to be amended so as to convert the same from a petition for grant of probate to one for grant of letters of administration. The Court allowed the aforesaid application and the instant petition was converted into one for the grant of letters of administration of the Will.

8. Besides the aforementioned legal representatives of the original petitioner, one Mr. Harish Tripathi is also arrayed as petitioner no. 3. All three present petitioners are beneficiaries under the Will.

9. The instant petition was initially contested by late Smt. Savita Kumari, the wife of the testator. Since her demise, her legal representatives, namely, Mr. Prabhatesh Pratap Singh and Mr. Prabhan Pratap Singh are contesting the petition. Another beneficiary under the will, namely Mr. Narottam Kumar, is also opposing the petition and is therefore, arrayed as one of the respondents herein.

10. The issues for the consideration of the Court, as framed *vide* order dated 01.11.1995, and modified *vide* order dated 04.12.2006, are as follows:

(1) *Whether the Will dated 4.11.1985 by deceased Raja Pratap Bhan Prakash Singh is a validly executed Will? OPP*

(1.A) *If Issue No. 1 is decided in affirmative, whether the will dated 4.11.1985 is void in view of provisions of Section 13 A(3) of the Oudh Estates Act, 1869? OPR 2-5*

(2) *Relief? If so, to what effect?*

11. The petitioners have examined the following witnesses and produced the following documents in support of their case:



Witnesses

1. PW-1- Smt. V. Prabha.
2. PW-2- Mr. Gulshan Kumar.
3. PW-3 – Mr. Rajiv Pandey.
4. PW-4 – Mr. Krishan Kumar.
5. PW-5 –Dr. Seekar Sachdev.
6. PW-6 – Mr. Ravinder Kumar.
7. PW-7, Mr. Ram Mohan (Retd IAS)

Documents

1. Exhibit PW2/1- The Original Will dated 04.11.1985
2. PW1/Mark C- Approved English translation of Order dated 26.10.1966 of Ld. Jagir Commissioner
3. PW1/Mark B- Copy of the Report of Jagir Commissioner State of Rajasthan, Jaipur
4. PW1/Mark A- Copy of sale deed of the property situated in Shyamgarh
5. Exhibit PW3/1- M/S Pragati Corporation – A letter signed by late Raja Pratap Bhan Prakash Singh, the Managing Partner of the registered Firm M/S Pragati Corporation to settle his shares
6. Exhibit PW1/1- The Original Letter in Hindi dated 03.10.1961 sent by Rameshwar Baksh Peshkar to Testator along with English Translation.
7. Exhibit PW1/2- The Original Letter in Hindi, dated 07.05.1968, signed and sent by Late Smt. Riddhi Kunwar, mother of the testator to the Inspector General of Police, UP Lucknow
8. Exhibit PW1/3- The Original Office Copy of Letter dated



2025:DHC:9972



- 21.09.1968, signed and sent by the Testator to the Superintendent of Police, Sitapur
9. Exhibit PW1/4- The Original Office Copy of Letter dated 21.09.68, signed and sent by the Testator to the District Magistrate, Sitapur
 10. Exhibit PW1/5- The Original Office Copy of Letter dated 9.5.1969, signed and sent by Registered Post by the Testator to the Commissioner, Lucknow, with Postal Receipt
 11. Exhibit PW1/6- The Original Office Copy of Letter dated 10.07.1969, signed and sent by the Registered Post by the Testator to the Inspector General of Police, UP, Lucknow,
 12. Exhibit PW1/7- The Original Office Copy of Letter dated 12.07.1969, signed and sent by Regd.Post by the Testator to the Regional Transport Officer, Lucknow with Postal Receipt
 13. Exhibit PW1/8- The Original Office Copy of the FIR and Complaint dated 15.07.70, signed and sent by the Testator to the SHO PS Laharpur, Dist Sitapur.
 14. Exhibit PW1/9- The Original Office Copy of the two letters dated 04.07.1970, signed and sent by the Testator to the then Chief Minister of UP, with the Postal Receipt & AD Card
 15. Exhibit PW1/10- The Original Office Copy of FIR dated 06.08.70 signed and sent by the Testator to the SHO PS Laharpur, Dist Sitapur.
 16. Exhibit PW1/11- The Original Office Copy of Letter dated 29.08.1970 signed and sent by the Testator to the then Chief Minister of UP, Lucknow, by Regd. Post with Postal Receipt



2025:DHC:9972



17. Exhibit PW1/12- The Original Office Copy of Confidential Letter Dated 10.09.70 signed and sent by the Testator to the SP Sitapur with AD Card and Postal Receipt.
18. Exhibit PW1/13- The Original Office Copy of FIR dated 16.10.1970 signed and lodged by the Testator at PS Laharpur, Dist Sitapur
19. Exhibit PW1/14- The Original Office Copy of the letter in Hindi dated 22.12.1970, signed and sent by the Testator to the Chief Minister, UP, Lucknow, with AD Card and English Translation.
20. Exhibit PW1/15- The Original Office Copy of the Application by the Testator u/s 29 (d) of the UP ZA & LR Act before the Board of Revenue, Allahabad, UP, for the appointment of receiver, signed by the Testator.
21. Exhibit PW1/16- Original office copy of letter dated 16.08.1973, signed and sent by the Testator to SP, Sitapur.
22. Exhibit PW1/17- Original office copy of FIR dated 10.05.1973, signed and lodged by the Testator with SP Sitapur.
23. Exhibit PW1/18- Original office copy of letter dated 31.05.1975, signed and sent by the Testator to the Director, National Academy of Administration, Mussoorie, with AD Card.
24. Exhibit PW1/19- Original office copy of the Letter dated 20.03.1975, signed and sent by the Testator to the Commissioner of Income Tax, Lucknow.
25. Exhibit PW1/20- Certified copy of order dated 08.04.1975 of the Income Tax Appellate Tribunal, Allahabad.
26. Exhibit PW1/21- Original office copy of letter dated 26.02.1976,



2025:DHC:9972



- signed and sent by the Testator to The Secretary Board of Direct Taxes, New Delhi, with AD Card.
27. Exhibit PW1/22- Original office copy of letter dated 20.03.1976, signed and sent by the Testator to the Divisional Manager, LIC, Lucknow.
 28. Exhibit PW1/23- Original office copy of letter dated 26.06.1978, signed and sent by the Testator to the Revenue Minister UP by Regd. Post.
 29. Exhibit PW1/24- Original office copy of letter dated 26.06.1978, signed and sent by the Testator, to the Chairman, LIC, Bombay, with the AD Card and the Postal Receipt.
 30. Exhibit PW1/25- Original office copy of the letter dated 24.07.1978, signed and sent by the Testator to the Divisional Manager, LIC Mumbai.
 31. Exhibit PW1/26- Original office copy of letter dated 28.07.1978, signed and sent by the Testator to the Divisional Manager, LIC Lucknow, with Postal Receipt.
 32. Exhibit PW1/27- Original office copy of letter dated 05.02.1985, signed and sent by the Testator to the Deputy Commissioner Sitapur, with AD Card.
 33. Exhibit PW1/28- Original office copy of letter dated 27.04.1985, signed and sent by the Testator to the Deputy Commissioner, Sitapur.
 34. Exhibit PW1/29- Original office copy of letter dated 19.05.1985 sent by the Testator to the SP Sitapur.
 35. Exhibit PW1/30- Original office copy of the letter dated



2025:DHC:9972



- 25.07.1985, signed and sent by the Testator to the Deputy Commissioner, Sitapur.
36. Exhibit PW1/31- Original handwritten holograph Will dated 27.04.1984, written by the Testator in his own handwriting in favour of Smt V.Prabha, Smt Madhulika Tripathi & Capt. Vikram.
37. Exhibit PW1/32- Original rough-draft of the Will, written by the Testator himself in February 1976, in favour of Smt V. Prabha.
38. Exhibit PW1/33- Original covering letter dated 19.02.1976 signed and sent by the Testator to his Advocate, Mr. Lakshmi Chandra Gupta at Sitapur, requesting him to give legal touch to the aforesaid rough Draft of the Will written by the Testator in February 1976.
39. Exhibit PW1/34- Certified copy of the Writ Petition No 1034/77 filed by Savita Kumari before the Hon'ble Allahabad High Court, Lucknow Bench on 19.05.1977, denying her marital relationship with the Testator since 1957, along with an affidavit on her behalf.
40. Exhibit PW1/35- Certified copy of the application filed by Sh. Prabhakar against the Testator, on 7.9.1968, before the Jagir Commissioner, Rajasthan at Jaipur.
41. Exhibit PW1/36- Public Notice by Sh. Prabhakar in Rajasthan Patrika, a daily newspaper of Rajasthan, dated 08.09.1968.
42. Exhibit PW1/37- Public Notice by the Testator, on 14.09.1968, severing connections with his sons.
8. The respondents have relied on the following witnesses and documents:



Witnesses

1. RW1 Mr. Prabhan Pratap Singh
2. RW2 Dr. Archana Vermani

Documents

1. DW1/A- Certified Copy of the sale deed dated 19.06.1967 in favour of Petitioner Shyam Singh House, Jaipur, given in grant of the H.H. of Jaipur, ancestors of the testator.
2. DW1/B- Certified copy of the Judgment of Jagir Commissioner.
3. DW1/C- Certified copy of the Judgement of the Civil Judge, Sitapur.
4. DW1/Mark A- Copy of agreement dated 22.10.1990 filed by the testator.
5. DW1/D- Certified copy of the sale deed in respect of the Kothi Savita Saran, Gokhle Marg, Lucknow.
6. RW2/1- Medical Records of the Testator from Moolchand Hospital, Lajpat Nagar, New Delhi.

Factual Matrix

9. The testator was the son of Mr. Pratap Bahadur Singh and a permanent resident of Ridhi Niketan, Vasant Kunj, Sitapur, Uttar Pradesh. However, at the time of his death, he was residing at 54, Kailash Apartments, Lala Lajpat Rai Road, New Delhi.
10. The Will was executed on 04.11.1985, having been attested by two witnesses, and was registered on 05.11.1985 at the residence of the testator. The testator passed away due to cancer on 07.11.1985 at Moolchand Kharati Lal Hospital, New Delhi.



11. Smt. V Prabha, i.e., the original petitioner, was named as the sole executrix in the will, and she had already given effect to several bequests made in the Will, including full settlement of the claims of some beneficiaries, prior to the institution of the present petition.

12. The following persons have been specified as beneficiaries by the testator in his Will:

1. Smt. Madhulika Tripathi w/o Mr. Harish Tripathi r/o D-184, Saket, New Delhi- 110017;
2. Captain Vikram Kumar r/o 54 Kailash Apartments, Lala Lajpat Rai Road, New Delhi;
3. Mr. Harish Tripathi s/o Brig. K.N. Tripathi r/o 18 Golimar Garden, Jaipur;
4. Mr. Narottam Kumar s/o Shiv Prasad r/o Village Shyamgarh, District Seekar (Rajasthan);
5. Smt. V. Prabha d/o Mr. Keshav Dev r/o Kailash Apartments, Lala Lajpat Rai Road, New Delhi (since deceased);

13. The deceased was survived by the following family members/legal heirs:

1. Smt. Savita Kumari (widow of the testator, since deceased)
2. Mr. Prabhakar Pratap Singh (son of the testator, since deceased)
3. Mr. Prabhatesh Pratap Singh (son of the testator)
4. Smt. Pratibha (daughter of the testator, since deceased)

14. The properties bequeathed under the Will are described in Schedules A, B, C, and D annexed thereto, and in the Schedule to the petition.

Submissions



15. Ms. Franseca Kapur, learned counsel for the respondents no. 2 to 4 who oppose the present petition, makes the following submissions:

15.1. The execution of the Will is shrouded in suspicious circumstances. The testator, at the time of the alleged execution of the Will, was suffering from various ailments, including liver cancer, and was not in a position even to move. The alleged execution of the Will took place two days prior to the death of the testator.

15.2. The undue influence exercised by the petitioner over the testator led him to alienate several ancestral properties to various persons, without any necessity for the family.

15.3. The testator was not of sound mind at the time of the alleged execution of the Will. The sale of various properties in his lifetime and his agreeing to sell the properties of his sisters and entering into litigation with them are examples of him being a person having unstable mind.

15.4. Various averments in the Will are factually incorrect, and the fact that the same are contained *verbatim* in the affidavit filed by the petitioner indicates that the same was drafted at the instance of the petitioner.

15.5. There is no cogent, reliable, satisfactory, and legally admissible evidence on record to say that at the time of signing and executing the Will, the testator had rational power of disposition. Neither the attesting witnesses nor any of the persons present at the time of the alleged execution of the Will have stated that the testator had a sound mental disposition at the relevant time. The statements of various



witnesses of the petitioner during their cross-examination indicate the same.

15.6. All the properties which are the subject matter of the Will are ancestral properties, and the testator could not have bequeathed the same.

15.7. The Will, allegedly executed two days before the death of testator, is void in view of Section 13 (A) of Oudh Estates Act, 1869.

15.8. The petition is undervalued, as the value of the ancestral fort/inherited properties in Shyamgarh is about Rs. 20 crores, the value of the agricultural land in Shyamgarh is about Rs. 10 crores, the value of the properties in Jaipur is about Rs. 10 Crores.

16. Dr. Meenakshi Kalra, learned counsel for the petitioners, vehemently opposes the aforesaid submissions and makes the following submissions:

16.1. The testator was aware of the nature and effect of the execution of the Will, and the same was not executed under any suspicious circumstances. She asserts that the burden of proving the existence of suspicious circumstances around the execution of the Will is on the respondents who assert the same.

16.2. P.W-2, Mr. Gulshan Kumar, who was an attesting witness to the Will, has attested to all the facts mentioned in the Will. Even before the execution of the Will, the testator had expressed to Mr. Gulshan Kumar that he wished to execute his last Will in favor of the original petitioner and her children. The decision to bequeath his property to the beneficiaries was something he had not only thought



of beforehand, but he was so certain about the same that he had even conveyed such desire to his close friends.

16.3. In order to substantiate her submission that the Will was executed without any pressure or helplessness, learned counsel for the petitioners submits that the testator had started writing the Will from 27.04.1984, and a handwritten draft by the testator himself is marked as Exhibit P.W-1/31, which is indicative of the fact that the Will was executed without any pressure or helplessness.

16.4. Further, the suggestion to the petitioners' witnesses to the effect that the testator signed the Will under helplessness has been specifically denied in their cross-examination. Dr. Meenakshi Kalra has also taken this Court through the cross-examination of P.W-5, Dr. Seekar Sachdev, who was the testator's general physician, wherein, when suggested that the purported signatures of the testator in all the pages of the Will did not tally with one another, the said witness strongly refuted the same, and deposed that he had seen the testator affixing his signatures therein.

16.5. In the absence of there being any evidence adduced by the respondents to buttress their contention that the Will was not validly executed by the testator, there is no reason not to grant the letter of administration. Reliance is placed on the decisions of the Supreme Court in the cases of *Meenakshiammal (Dead) through LRs and others v. Chandrashekar*² and *Meena Pradhan and others v. Kamla Pradhan and another*³ in support of her submission that the

²(2005) 1 SCC 280

³2023 INSC 847



burden of proving that the Will was executed under suspicious circumstances is on the person asserting the same.

16.6. Addressing the objection raised by the respondents that the bequests made in the Will were in contravention of Section 13(a) of the Oudh Estates Act, 1869 (*hereinafter referred to as the Oudh Act*), learned counsel for the petitioners submits that having raised such an objection, the burden of proving that Section 13(a) of the Oudh Act applied to the scheduled properties lay on the respondents. Without conceding on the point of burden of proof on this aspect, she contends that the aforesaid provision does not apply to self-acquired properties of a Taluqdar. She contends that, therefore, the petitioners are entitled for grant of letter of administration.

16.7. The nature of the testator's title over the bequeathed properties cannot be adjudicated by the Court in a petition for grant of letters of administration. Therefore, the objection that the testator could not have bequeathed the properties which, allegedly, formed a part of the talukdari estate, cannot be raised in the present petition.

17. Mr. Rishi Matolia, learned counsel for respondent no.5, makes the following submissions:

17.1. Respondent no. 5 was not arrayed as a party when the petition was filed and was arrayed only in the year 2020 despite being one of the beneficiaries to the Will. The instant petition is liable to be dismissed on this ground alone.

17.2. Respondent no. 5 had been kept in the dark with respect to the proceedings in the present petition by the other parties. In fact, being



ignorant of the present proceedings, he had purchased some of the bequeathed properties from the other respondents by way of Sale Deed dated 10.10.2014.

18. I have heard learned counsel for the parties and have perused the record. For the reasons recorded hereunder, it is concluded that the Will was validly executed and the petitioners are entitled to the letter of administration with respect to the Will.

Analysis

Issue No. 1

19. The requirements for valid execution of unprivileged wills are provided under Section 63 of the Indian Succession Act, 1925, which is extracted below, for reference:

“63. Execution of unprivileged wills.—Every testator, not being a soldier employed in an expedition or engaged in actual warfare, 1 [or an airman so employed or engaged,] or a mariner at sea, shall execute his will according to the following rules:—

(a) The testator shall sign or shall affix his mark to the will, or it shall be signed by some other person in his presence and by his direction.

(b) The signature or mark of the testator, or the signature of the person signing for him, shall be so placed that it shall appear that it was intended thereby to give effect to the writing as a will.

(c) The will shall be attested by two or more witnesses, each of whom has seen the testator sign or affix his mark to the will or has seen some other person sign the will, in the presence and by the direction of the testator, or has received from the testator a personal acknowledgment of his signature or mark, or of the signature of such other person; and each of the witnesses shall sign the will in the presence of the testator, but it shall not be necessary that more than one witness be present at the same time, and no particular form of attestation shall be necessary.”

20. A perusal of the same indicates that for a Will to be considered as validly executed, the following requirements have to be satisfied:



- 20.1. The will must be in writing.
 - 20.2. The testator (or a person acting under the direction and in the presence of the testator) must have affixed his signature or mark to the will;
 - 20.3. At least two attesting witnesses must have affixed their signatures to the will.
 - 20.4. The attesting witnesses must have either seen the testator or another person authorized by the testator affix his signature on the will, or must have received personal acknowledgment of the testator's signature to the will.
 - 20.5. The attesting witnesses must have signed the Will in the presence of the testator, although the witnesses inter se may not be in each other's presence.
21. Section 68 of the Evidence Act provides rules for the mode of proof of a Will. The said provision is extracted below, for reference:

“68. Proof of execution of document required by law to be attested.—
If a document is required by law to be attested, it shall not be used as evidence until one attesting witness at least has been called for the purpose of proving its execution, if there be an attesting witness alive, and subject to the process of the Court and capable of giving evidence:

Provided that it shall not be necessary to call an attesting witness in proof of the execution of any document, not being a will, which has been registered in accordance with the provisions of the Indian Registration Act, 1908 (16 of 1908), unless its execution by the person by whom it purports to have been executed is specifically denied.”

22. Thus, the party bearing the burden to prove a Will must examine at least one of the attesting witnesses to prove the due execution of the Will by the testator. In the present case, PW-2, Mr. Gulshan Kumar, who is one of the attesting witnesses to the Will, has deposed that the testator had affixed



his signature on the Will in the presence of both the attesting witnesses at his residence. He has further stated that both the attesting witnesses affixed their signatures to the Will in the presence of the testator. The evidence of PW-4, Mr. Krishan Kumar, the other attesting witness, and PW-5, Dr. Seekar Sachdev, who is also a signatory to the Will, also corroborates that of PW-2. In his cross-examination by learned counsel for respondents no. 2 to 4, PW-4 has deposed specifically that the signatories to the Will had affixed their signatures in the presence of one another, at the testator's residence.

23. Therefore, evidence of both the attesting witnesses has been led by the petitioners to satisfy the Court that the requirements under Section 63 of the Succession Act, for the valid execution of the Will, have been fulfilled. The attesting witnesses have deposed in accordance with the statutory principles of evidence, and there is nothing on record to impeach the competency of the said witnesses to depose regarding attestation.

24. The respondents have attempted to set up a case that the purported execution of the Will was surrounded by suspicious circumstances. In order to substantiate this contention, the respondents have relied upon various circumstances such as the precarious medical condition of the testator, involvement of ancestral properties in the Will, willingness of the testator to proceed against the properties of his sister, presence of averments similar to the Will in the affidavit of the petitioner, etc. However, the alleged circumstances fail to make out a reasonable case against the credibility of the execution of the Will as they are neither supported by any material nor by the surrounding set of facts.

25. The evidence led by the petitioners indicates that the bequests made in the Will were deliberated on by the testator for several years prior to the



registration. Exhibit PW-1/33, which is a letter dated 19.02.1976 written by the testator to his advocate, clearly discloses an intention to bequeath his properties to the petitioners and to the exclusion of his legal heirs. Therefore, the fact that the testator was suffering from various ailments does not raise any suspicion in the eyes of the Court, as his mental faculties appear to have been in order and the bequest appears to be a conscious call on his part, which was an outcome of prolonged deliberation.

26. The fact that the natural legal heirs have been excluded from inheritance in the Will also cannot be deemed to be suspicious, especially in light of the fact that the averments in the Will give a detailed explanation of the circumstances under which and the reasons for the exclusion of the natural legal heirs of the testator. It is not a case of unexplained silence in relation to the exclusion of the natural legal heirs, as the Will is self-explanatory. The testator has recorded matrimonial discords that he had with his wife, and that his children were hostile and disaffectionate towards him. In fact, it is stated therein that he had received life threats on various occasions, and consequently, he had moved away from his family. It is stated in the Will that the family of the original petitioner took care of him subsequent to his separation from respondents no. 2 to 4. Furthermore, the letters sent by the testator to various public authorities in respect of legal issues with the respondents herein also indicate the circumstances wherein the present bequest does not seem to be suspicious.

27. As far as the submission that the original petitioner, who was a beneficiary under the Will, had played a significant role in its drafting is concerned, the same is not supported by any cogent or credible evidence. The submission on behalf of the respondents that since certain averments in



the Will are contained *verbatim* in the petition as well, it indicates an active role of the original petitioner in its drafting, cannot be accepted. The original petitioner, Smt. V. Prabha, was cross-examined extensively by learned counsel for respondents no. 2 to 4. However, her position in her cross-examination was that while she did look after the legal matters of the testator, she did not take any proactive step in the bequest in question; her role in the preparation of the Will was restricted to the extent that she acted as directed by the testator, who was staying at her place of residence. The fact that the testator had expressed his desire to bequeath his properties as per the terms of the Will, as far back as in the year 1976, as per Exhibit PW-1/33, also indicates that the said bequest was a well-thought-out decision taken of his own volition and not at the instance of the original petitioner. The respondents have not led any evidence to establish their allegation to the contrary, and the allegation of the respondents in this regard could only be termed as a conjecture.

28. Further, the respondents have not placed any document on record or examined any witness to verify the state of the testator's mind at the time of making the bequest. The only explanation adduced on behalf of the respondents to indicate unsoundness of mind is the fact that the testator had earlier sold properties, which, as per the respondents, he did not have title to. The same cannot be the basis for the Court to conclude that the testator did not have a sound mental state at the time of registration of the Will. Moreover, PW-5 Dr. Seekar Sachdev, who was also the testator's personal physician, in his cross-examination, has expressly deposed that the testator seemed to be in a fit mental state at the time of the execution of the Will. He also identified his handwritten endorsement to that effect, in the Will. The



statement of PW-2 Mr. Gulshan Kumar, in his cross-examination, also corroborate the said position. Thus, the contention regarding mental incapacity at the time of execution is also unsubstantiated and, in fact, runs contrary to the independent evidence on record.

29. The Court, at this stage, also takes note of the significance of the registration of a Will. There exists a presumption that registered documents are genuine, and the said presumption extends even to Wills once the requirements under Section 68 of the Evidence Act are fulfilled. The onus, thereafter, to establish that the Will is not genuine or is vitiated by suspicious circumstances, lies on the person challenging the Will. It is all the more so in the present case, where the pleadings alleging suspicious circumstances surrounding the execution of the Will are unsupported by satisfactory evidence. It is only once the respondents are able to satisfy the Court, *prima facie*, that the purported execution was suspicious, that the onus of proving the validity of execution would shift on the petitioner. It would be wholly erroneous and violative of the principles of evidence and registration if a party is allowed to impeach the credibility of a registered document on the basis of assumed suspicion, unsupported by the evidence on record, and contrary to the attesting witnesses to such document.

30. In the aforesaid context, it is pertinent to appreciate that, in spite of the fact that the Will was registered at the testator's residence, and by practice, the same is done only on medical grounds and upon filing an application to the aforesaid effect, no such application or medical records were produced by PW-6, LDC from the office of the concerned Sub-Registrar. However, even if no such application was actually made, the aforesaid defect is merely procedural, and under Section 87 of the



Registration Act, 1908, the same does not invalidate the registration of the Will.

31. Therefore, this Court is of the opinion that the Will was validly executed in terms of the provision in Section 63 of the Succession Act, and Issue No. 1 is answered in the affirmative.

Issue No. 1A

32. The instant issue, which was framed subsequently as an additional issue, requires the Court to adjudicate on a question regarding the right of the testator to bequeath some of the properties which form the subject matter of the Will.

33. It is trite law that in petitions for probate or grant of letters of administration in respect of Wills, the only questions to be examined by the Court are, whether the document being propounded is the last Will and testament of the testator, and whether the same was validly executed, fulfilling all the statutory requirements. In such cases, the Court is not empowered to decide questions of title of the testator *qua* the bequeathed properties or his authority to bequeath the same. Reference can be made to the decisions of the Supreme Court in ***Ishwardeo Narain Singh v. Kamta Devi***.⁴ The relevant portion of the said decision is extracted below, for reference:

“4. The dismissal of the application for probate on the ground that the disposition in favour of Thakurji is void for uncertainty can on no principle be supported and indeed the learned counsel appearing for the respondent has not sought to do so. The Court of Probate is only concerned with the question as to whether the document put forward as the last will and testament of a deceased person was duly executed and attested in accordance with law and whether at the time of such

⁴(1953) 1 SCC 295



execution the testator had sound disposing mind. The question whether a particular bequest is good or bad is not within the purview of the Probate Court. It is surprising how this elementary principle of law was overlooked by both the courts below. However, as the learned counsel appearing for the respondents has not sought to support this ground nothing further need be said on that.”

34. Thus, in view of the limited scope of inquiry available to this Court in the exercise of this jurisdiction, the Court cannot delve into the propriety of the bequest. In view of the aforesaid position of law, it would be unwarranted for this Court to adjudicate on this issue, the same being beyond the jurisdiction of the Court.

Conclusion-Issue No.2

35. In light of the foregoing discussion, Issue No. 2 is answered as follows:

36. Let a letter of administration in respect of the Will dated 04.11.1985 be issued for all the bequeathed properties in favour of the petitioners by the Registry, subject to the petitioners’ furnishing the requisite bond and payment of the applicable Court fee/Stamp Duty.

37. Let the matter be placed before the concerned Joint Registrar on 24.11.2025, who shall verify whether the procedural requirements in respect of Court-fees have been complied with and ensure compliance before issuing the letter of administration. If valuation of any of the bequeathed properties needs to be carried out, the Valuation Report be obtained from the concerned District Magistrate and be placed before the concerned Joint Registrar. Let the needful exercise be done in an expeditious manner and without any undue delay.

38. Ordered accordingly. It be noted that this Court has not rendered any



2025:DHC:9972



finding on any question of title.

39. Accordingly, the instant petition stands disposed of.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

NOVEMBER 12, 2025

P