

IN THE COURT OF ADDITIONAL DISTRICT JUDGE – III SASARAM, ROHTAS
DISTRICT – ROHTAS

PROBATE Case No. – 56/2023

CIS NO.- 56 of 2023

IN THE MATTER OF:-

Smt. Geeta Devi W/O Anil Kumar R/O Mohh.-Chawar Takiya, Sasaram, P.O. Sasaram,
P.S.-Sasaram, Distt.-Rohtas.

.....**Petitioner**

Versus

Estate of Late Sunil Kumar

.....**Opposite Parties**

Ld. Counsel for the Petitioner : Md. Moinuddin Ansari, Ld. Adv,

Ld. counsel for the O.P. : Sri Ram Singh, Ld. Adv.

Date of order :- 23.02.2026

PRESENT : Jeevan Lal, District Judge – IIIrd, Sasaram, Rohtas

ORDER

1. The instant probate case has been filed by the petitioner for grant probate of the registered will of deed on 02.01.2023 in favour of the petitioner.
2. The case of the petitioner is that and as per the genealogical table of late Moti Lal it will be clear that the name of the wife of Moti Lal is Chameli Devi. Late Moti Lal had three sons namely Anil Kumar, Sunil Kumar and Santosh Kumar. Petitioner is the wife of Anil Kumar. Anil Kumar has four sons namely Vikash Kumar, Prakash Kumar, Amit Kumar and Roushan Kumar. Santosh Kumar has two sons namely Himanshu Shekhar @ Raja and Deepak Raj @ Munna. Sunil Kumar died unmarried. Further the case of the petitioner is that the house detailed in Schedule-A to this petition was the property of Late Sunil Kumar a partition between Moti Lal and his sons took place from permanent Lok Adalat vide case no.-131(D)/2003 by the compromise and award dated 17.03.2003. Sunil Kumar, Moti Lal and Chameli Devi jointly got a pucca double story building of 01 decimal standing on plot no.-357/319 of Mohalla Chawar Takiya and 9 katha land in Mauza Bhatarhi, P.S.-Sasaram, Distt.-Rohtas. In the said compromise it is mentioned that the share of Moti Lal and Chameli Devi will be vested in Sunil Kumar on their death. As such the interest of Moti Lal has vested in Sunil Kumar after the death of Moti Lal. Chameli Devi is still alive, petitioner used to render service to Sunil Kumar. Sunil Kumar was unmarried and was very weak from body. Further the case of the petitioner is that Sunil Kumar bequeath the property mentioned in Schedule-A of the Probate petition by executing a registered deed of will dated 02.01.2023 in favour of petitioner and the testator Sunil Kumar got prepared the will under his guidance and supervision through Raghu Nandan Singh the deed writer. After preparation of the will Sunil Kumar after reading and understanding of the contents of will wrote the execution and put his signature in presence of attesting witnesses Krishna Kumar

and Anil Kumar. On the request of testator attesting witnesses Krishna Kumar and Anil Kumar put their respective signatures on the will. The scribe Raghu Nandan Singh has also signed on the will. There after the document of will was presented by Sunil Kumar in the registry office and admitted the execution of will before the Registrar Sunil Kumar was mentally and physically sound at the time of execution of Will. The testator under his free will and mind has executed the Will dated 02.01.2023, the testator Sunil Kumar died on 13.03.2023 at his native place in Mohalla-Chawar Takiya, Sasaram. The testator had fixed place of aboard. The property also situates within the district Rohtas and the will dated 02.01.2023 is the last will and codicil of the testator. Further the case of the petitioner is that the testator Sunil Kumar died leaving behind the following near relatives.

- i. Chameli Devi (Mother) W/O Late Moti Lal
- ii. Anil Kumar
- iii. Santosh Kumar S/O Late Moti Lal

All R/O Vill.-Chawar Takiya, Sasaram, P.O.-Sasaram, P.S.-Sasaram, Distt.-Rohtas

That after death of testator the petitioner being the executor came in possession over the Schedule-A land and is still continuing. The petitioner is in possession over the Schedule-A land.

SCHEDULE-A

Details of the properties likely to come in the hands of petitioner

Double storied house situated in Mohalla-Chawar Takiya, Thana no.-126, Old ward no.-23/9, Present ward no.-13, holding no.-18/30, Anchal & P.S.-Sasaram, Distt.-Rohtas.

Khata No.	Plot No.	Area	Boundary
185	357/319	01 decimal (house)	N.-Ramesh Prasad S.-Butan Ram E.-Sadak W.- Ramesh Prasad

The O.Ps. Party appeared with the submission that deceased Moti Lal had died left behind his widow Chameli Devi and three sons Anil Kumar, Sunil Kumar and Santosh Kumar. Moti Lal had partitioned the entire properties between three sons during his life time in the year 2003, further the submission of the Ops are that averments of Para no. 1 to 3 of the probate petition are correct. That the disputed house was allotted to the share of Sunil Kumar. The averments of Para no. 4 to 7 of the probate petition are are also correct. It is true that Sunil Kumar was mentally and physically sound persons and had executed a registered deed of will on 02.01.2023 on his own free will and appointed the petitioner to the executor. It is true that testator Sunil Kumar had executed the Will in presence of attesting witnesses and on the request of testator, the attesting witnesses signed on the will. The averments of

the will was scribes on the request of testator by scribe Raghu Nandan Singh @ Jaggu, the averments of Para no.-8 to 10 of the probate petition are correct. It is true that the will dated 02.01.2023 is the last will of testator and testator has died leaving behind his mother and two brothers. The averments of para no, 11 and 12 of the probate petition are correct. The petitioner is in possession of the house detailed in Schedule-A of the probate petition. The averments of para no.- 13 to 15 of the probate petition are not denied. These O.Ps have no objection in granting the probate and letter of Administration to the will in favour of petitioner.

On the basis of the pleading following issues have been framed:-

- i. Whether the probate petition is legally maintainable ?
- ii. Whether the testator Sunil Kumar has executed the will dated 02.01.2023 on his won will in his sound health and mind?
- iii. Whether the will is dully executed and attested by the attesting witnesses?
- iv. Whether the petitioner Gita Devi is executor duly nominated by testator Sunil Kumar?
- v. Whether the petitioner is entitled to the probate and letter of administration of the said will dated 02.01.2023?

On behalf of the petitioner A.W.-1 Geeta Devi, Applicant A.W.-2 Krishna Kumar and A.W.-3 Yadunandan Singh have been examined and on behalf of the O.P. one witness Anil Kumar have been examined.

Documents file on behalf of applicant.

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|--|---|---------|
| i. Registered Will dated 02.01.2023 | - | Ext.-1 |
| ii. Death certificate of deceased Sunil Kumar | - | Ext.-2 |
| iii. Khatian | - | Ext.-3 |
| iv. Order of Permanent Lok Adalat Sasaram (Certified Copy) | - | Ext.-4 |
| v. Certified copy of order of Lok Adalat Sasaram | - | Ext.4/4 |

FINDINGS

3. **(I)** Issue no.-2,3 and 4 are taken together as they all are interlinked to prove this case and for the sake of these issues the applicant produced first of all **P.W.-1 Geeta Devi who stated** in her statement on affidavit that she is the applicant in the above probate suit. She has brought the probate suit to grant probate in is name after the death of his brother-in-law, Sunil Kumar, based on registered will dated 02.01.2023 executed in her favour by him. Late Sunil Kumar had three brothers. His other two brothers are Anil Kumar and Santosh Kumar both his brothers and his mother, Chameli Devi, are still alive, while his father, Moti lal, has passed away and she has made both his brothers and his mother parties to this suit. The probate property of the testator, late Sunil was acquired through partition through the said partition. After his father's death, Sunil Kumar received his father's share based on a Lok Adalat award. The testator bequeathed only one decimal of the bequeathed plot to her, which she currently occupying. His brother-in-law was unmarried and

physically weak he used to take care of him and her husband used to bear the expenses of his maintenance. She further stated that his brother-in-law Sunil Kumar being pleased with her service, has on his instructions made a will for the benefit of his property Sunil Kumar was of sound mind and physically health at the time of execution and registration of the will. Her Brother-in-law passed away on 02.01.2023 at his residence. After the death of the Sunil Kumar, her title and peaceful possession of the bequeathed property was established and continues to be so.

During the course of cross-examination she deposed that the will is registered which has been written in his favour by her brother-in-law Sunil Kumar. There is a house of one decimal land for which the will has been written. Sunil Kumar died on march 2023 his will was written in January 2023 and he died due to sudden illness. He was unmarried.

P.W.-2 Krishna Kumar in his statement on affidavit has stated that he knew the Sunil Kumar from his neighborhood he was like a brother to him. He was unmarried, but he shared his meals and accommodations with his brother Anil Kumar and his family. All the hereditary properties of late Sunil Kumar, his brother, parents and other shareholders were divided through the National Lok Adalat, Sasaram. He further stated that late Sunil Kumar looked after wholeheartedly by his sister-in-law Geeta Devi, due to which Sunil Kumar was very happy. Sunil Kumar being happy with the services of his sister-in-law, gave away 1 decimal land along with house from his share of property to his sister-in-law Geeta Devi. On 02.01.2023, he made a will in front of him and others on his instruction from his acquaintance, the executor Navish Yadunandan Singh prepared the dead of will. Sunil Kumar had the draft of will read out and understood and finding it correct, wrote the attestation of the will with his own pen and signed each page. He on Sunil Kumar's instructions, identified Sunil Kumar as the testator and also signed the will as a witness.

During the course of cross-examination he deposed that the testator, Sunil Kumar and he the witness live in the same neighborhood. Their house are 500 meters apart. This Will was prepared on the instructions of Sunil Kumar and he had signed the prepared draft after reading and understating it and all the proceedings of the will took place in his presence. On the day the will was being written, the mental condition of the testator Sunil Kumar was sound and there as no pressure on him to write the will. Sunil Kumar has died and after his death the land mentioned in the will is in the possession of Geeta Devi and there is no dispute over it.

P.W.-3 Yadunandan Singh, has in his statement on affidavit stated that he knew Sunil Kumar, testator before the writing of the Will. Sunil Kumar was the brother-in-law of the applicant Geeta Devi. Sunil Kumar came to him in January 2023 and discussed matter of the writing of Will and at the behest of Sunil Kumar and as per his instructions he prepared the draft of the Will and got it typed in front

of him by computer typist. He read out the contents of will and explained it to Sunil Kumar and after reading the contents and finding them correct, Sunil Kumar wrote the execution of the said Will in his own pen in the presence of him and witnesses Krishna Kumar and Anil Kumar. At the time of execution of will the testator Sunil Kumar was in mentally sound and well. This is the same will No. 1 dated 02.01.2023 the entire proceedings of which were concluded in his presence. He recognize all other handwriting and signature on the will. All the statements made above are true to the best of his knowledge.

During the course of cross-examination he deposed that he knew the testator, Sunil Kumar from a previous acquaintance. He prepared the draft will at Sunil Kumar's request he brought the relevant documents to prepare the draft. Sunil Kumar is educated and he personally read the draft prepared by him. The attestation was made in his presence, ad the identification witnesses also signed in his presence. The draft of the Will was presented before the registrar by the testator Sunil Kumar and the will was accepted before him in the Registry office.

On behalf of Opposite party.

1. D.W.-1 Anil Kumar in his statement on affidavit has stated that he is a Opponent No.2 in this suit. Opponent No.1 is his mother. He is the applicant's husband. During his father's lifetime, a partition was made among all the shareholders on the basis of the award of the Lok Adalat with mutual consent by the said partition, Sunil Kumar got a 1.5 decimal house as his share jointly with his parents. As per the settlement agreement, Sunil Kumar was to receive his share after the death of his parents. After the death of his father, Sunil Kumar received it as per the conditions of the settlement agreement. Sunil Kumar voluntarily executed a registered will dated 02.01.2023 in favour of applicant Geeta Devi in respect of 1 decimal house and got it registered. The test of that will was prepared by scribe Yadunanand Singh on the instructions of Sunil Kumar and it was typed. After reading and understanding the text of the will, I wrote the execution with my own pen and signed it in front of witnesses and on the instructions of Sunil Kumar, Krishna Kumar of the same locality and I gave our respective witnesses on the will and scribe Yadunandan Singh also signed and presented the said will for registration in Sasaram Registration office on the same day and accepted the execution before the sub registrar. While executing the will, testator Sunil Kumar was physically and mentally healthy. Sunil Kumar, my younger brother, was unmarried and died a natural death at his home on March 13, 2023. The applicant, I, and my children cared for Sunil Kumar. After Sunil Kumar's death, the applicant and I performed his cremation and shraddha rituals. The applicant is in possession of the bequeathed house.

During the course of cross-examination he stated that, this is the same will bearing my signature as a witness which I recognize marked as Exhibit&D-1/A

during Cross-Examination he stated that the testator is my brother who was unmarried and was served by my wife and the land for which the executed will is written is his own land. Our brother was happy with our care. He was in good health and mental health at the time of writing his will, and he did so voluntarily and without any pressure from anyone. The will was prepared on the instructions of the testator and I and the witnesses signed it on the instructions of the testator. The testator Sunil Kumar died on 13.03.2023 under our supervision, after which his last rites were performed by me and my wife. My mother is alive and she is unable to walk, I have given testimony on her behalf also. The application has unrestricted possession of the willed house. I have no objection to the grant of probate to the applicant.

4. As this is a case of probate of a registered Will dated 02.01.2023 and the applicant has to prove that it was executed in sound mind and health in presence of two witnesses and it was also the last Will. A.W.-1 is the sister in-law of deceased Sunil Kumar who has executed the registered Will of deed on 02.01.2023. A.W.-2 Krishna Kumar is the witness of Will dated 02.01.2023 who proved the will as a witness. A.W.-3 is the katib who drafted the will and prove the same as Ext.-1/B. The O.P. witness no.-1 Anil Kumar is a opposite party and a witness of the registered will who proved the will dated 02.01.2023 as a witness as Ext.-D1/A and also stated that the testator was his brother and he was unmarried who was looked after by his wife and on the goods services and care the deceased executed the registered deed of will in her favour for which he has no objection.

5. On the basis of the evidences that the Will of deed executed was executed in sound mind which has also been proved by the witnesses of the Will and there is no objection of any opposite party issue no.-2,3 and 4 is affirmed in favour of the applicant.

6. From the facts and circumstances discussed above, this Court is of the view that the registered deed of will dated 02.01.2023 has been executed as per provision contained in Section 68 of the Indian Evidence Act and Section 59 and 63 of the Indian Succession Act. Accordingly, the same is liable to be allowed. The deed of will appears to have been executed genuinely issue no.-1 and 5 also goes in favour of the applicant. Accordingly, the applicant is entitled for issuance of probate of will in her favour. Hence, this probate application is liable to be allowed and the reliefs are liable to be granted Accordingly, this probate petition of the applicant is allowed.

The O.C. is directed to issue probate order in favour of the applicant after deposition of proper stamps.

File be transmitted to Record Room after due compliance and within prescribed period.

Dictated & corrected

District Judge – III
Rohtas, Sasaram
23.02.2026

Dictated & corrected

District Judge – III
Rohtas, Sasaram
23.02.2026