
(2025) 12 DEL CK 0001

Delhi HC

Case No: FAO No. 172 Of 2009

Sunil Kant

APPELLANT

Vs

Samrat Chander & Ors

RESPONDENT

Date of Decision: Dec. 4, 2025

Acts Referred:

- Indian Succession Act, 1925- Section 63, 276, 299
- Transfer of Property Act, 1882- Section 53A
- Evidence Act, 1882- Section 68

Hon'ble Judges: Chandrasekharan Sudha, J

Bench: Single Bench

Advocate: Tanu Singhal, Ayush Kushwahn

Final Decision: Dismissed

Judgement

Chandrasekharan Sudha, J

1. This appeal under Section 299 of the Indian Succession Act, 1925 (ISA), has been filed by respondent no. 4/objector challenging the judgment dated 19.02.2009 passed by the learned District Judge-07, Tis Hazari Courts, Delhi, in P.C. No. 279/2006, whereby respondent no. 1/petitioner has been granted probate. In this appeal, the parties, unless otherwise specified, will be referred to as described in the probate petition.

2. In the petition filed under Section 276 of the ISA it is alleged thus:- The father of the petitioner, late Shri Ramji Dass, was the owner of Shop No. 78, Mall Road, Kingsway Camp, Delhi (the suit property). The property was his self-acquired property, which he bequeathed to the petitioner by way of a Will dated 14.09.1998, which was duly registered before the Sub-Registrar, Delhi. Ramji Dass died on 08.07.2005. Ramji Dass had executed the Will while he was in a sound disposing state of mind and without any pressure or compulsion from others. It was executed in the presence of witnesses. In the Will, the testator has also stated that his son Sunil Kant, that is, respondent No. 4, had falsely proclaimed himself to be the owner of the aforesaid property, although he has no right, title or interest in the property or any other property of the testator, movable or immovable. It was prayed that the Court may grant a letter/certificate of probate in his favour in respect of the estate of late Shri Ramji Dass, as described in Schedule-A and bequeathed to the petitioner vide his last and final registered Will dated 14th September, 1998.

3. Respondent no. 1, the wife; respondent no. 2, another son and respondent no. 3, the daughter of the testator, reported no objection to the petition.

4. Respondent no.4, another son of the testator, filed objections contending thus:- the petitioner has concealed material facts in the petition. He has not disclosed the pendency of various litigations between the parties qua the property, which are pending adjudication before various fora, including this Court. The petition is devoid of merits and based on false allegations. The testator had no right to execute the Will in question as he had already sold the property in question on 30.04.1998 for due consideration to respondent no. 4 pursuant, to which the latter has been in exclusive possession of the property for the last more than two decades. The probate petition is nothing but a counter-blast to the legal proceedings already going on in various courts of law between the parties. There are several suspicious circumstances surrounding the execution of the Will, which would be unearthed during the trial. On 25.12.1997, a deed in Urdu had been executed by the father expressing his wishes qua the status of the shop, the photo-copy of which has been produced in suit no.322/1998, pending in the Court of the learned Civil Judge, Delhi. In addition, there are various other documents in his possession, duly executed in his favour by his father to prove that title interest, ownership and possession of the property have been transferred and entrusted in his favour. Thus, he prayed for a dismissal of the petition.

5. On completion of pleadings, necessary issues were framed by the Trial Court. PW1 to PW4 were examined on behalf of the petitioner. The original Will was marked as Ex.PW-1/A. RW1 to RW5 were examined on behalf of respondent no.4/the objector.

6. It was submitted by the learned counsel for the appellant/respondent no.4 that, as the testator had already sold the schedule property to him on 30.04.1998, the latter had no authority to execute the Will in question. The father had executed a will dated 30.04.1998 along with an Agreement to Sell the property; a General Power of Attorney; Special Power of Attorney; a letter handing over possession, and a receipt indicating receipt of consideration by which the ownership and title of the schedule property stood transferred in his favour. Reference was also made to Section 53-A of the Transfer of Property Act, 1882 (the TP Act) to contend that, in part performance of the agreement, respondent no. 4 had paid the required consideration and took possession of the property and therefore, the testator did not have the authority to execute the Will in question qua the schedule property. Further, the testimonies of the attesting witnesses to the Will, namely PW-2 and PW-4, are contradictory, which raises doubts regarding its execution. It was also submitted that the petitioner, being one of the beneficiaries, actively participated in the execution of the Will, which is yet another aspect that raises doubts and suspicion regarding its execution.

7. When the appeal was taken up for hearing, there was no representation on behalf of the petitioner. Before the Trial Court, the petitioner alleged that respondent no. 4 had obtained signatures of the testator on blank papers as well as on stamp papers on the pretext that the shop in question required repairs, at a time when the testator was sick and recovering after being discharged from Sunder Lal Jain Hospital and thereafter, fabricated documents in support of his claim. The testator, on coming to know of the deeds fabricated by respondent no.4, cancelled all the documents dated 30.04.1998 vide cancellation deed dated 27.10.1998 and had also sent a legal notice dated 24.10.1998 to respondent no.4 informing him that the documents of 30.04.1998 stood cancelled and that respondent no.4 was debarred from inheriting any movable or immovable property of the testator.

8. From the records it is revealed that respondent no.4 had filed suit bearing No.322/1998 against the testator and others for specific performance of the documents executed on 30.04.1998, claiming that he had purchased the shop for valid consideration and seeking protection from dispossession. The testator and his wife/respondent no.1 had also filed a suit bearing no. 89/2001 seeking possession and recovery of occupancy charges against respondent no.4 qua the schedule property. It was submitted during the course of arguments that the suits later became infructuous as the property in question was acquired by the Delhi Metro Rail Corporation, though compensation has been withheld due to the dispute raised by respondent no.4.

9. Heard the learned counsel for the appellant/respondent no.4. There was no representation on behalf of the respondent/petitioner or the other respondents.

10. I first refer to the law on the aspect of proof of a Will. As held by the Apex Court in *Meena Pradhan v. Kamla Pradhan*, (2023) 9 SCC 734, the burden is on the propounder to establish that the will was duly executed by the testator as his last Will and that all statutory requirements under Section 63 of the ISA and Section 68 of the Indian Evidence Act, 1882 are fulfilled, namely, proper signing by the testator, attestation by at least two witnesses, and examination of at least one attesting witness who can speak to both the testator's signature and the witnesses signing in his presence. The will need not be proved with mathematical certainty but must satisfy the prudent mind test. If one attesting witness cannot prove execution, the other must be examined. Where suspicious circumstances exist, such as shaky signatures, a feeble mind, unnatural dispositions, or the propounder's dominant involvement, the propounder bears a heavier burden to dispel such doubts by cogent evidence and satisfy the Court's judicial conscience. Allegations of fraud or undue influence must be proved by the one alleging them, but even in the absence of such pleadings, any real and legitimate suspicion must be removed before the Will can be accepted.

11. Here it would be apposite to refer to the relevant portions of the Ex. PW1/A Will dated 14.09.1998 which reads:

"1. That the Testator hereby declares that on his demise the shop No. 78, Mall Road, Kingsway Camp, Delhi - 110009 shall be the exclusive property of his eldest son Shri Samrat Chander and no other person shall have any claim, right, title or interest in the said property.

2. That the property and built up house bearing No. 2249, Hudson Line, Kingsway Camp, Delhi-110009 shall be the exclusive property of his own son Shri Veer Bahadur shall have the exclusive right to enjoy the said property as his own and no other person shall have any claim, right, title or interest in the said property. The executant also states that the entire payments for purchase of the plot, construction of the house, conversion of the ownership right from leasehold to freehold, payment of house tax etc. regarding the property bearing No. 2249, Hudson Lines, Kingsway Camp, Delhi-110009 have been made by his son Veer Bahadur and no other person has made any contribution in the purchase, construction, development or maintenance of the property.

3. That his son Shri Sunil Kant resident of 9/27, Double Storey, Vijay Nagar shall not be entitled to any of his properties movable or immovable. His said son has caused grievous injury to his feelings as he has declined to make any payment for meeting his personal expenses despite of having a family arrangement whereby he was obliged to make contributions on this account. Further he has caused annoyance and created a nuisance by having a false and fabricated legal notice served upon me which has been duly replied by his counsel on 17th August 1998 putting the true and correct facts through his counsel Shri Devraj Singh.

4. That his son Sunil Kant further caused grievous injury to him by falsely proclaiming himself to be the owner of shop No. 78, Mall Road, Kingsway Camp, Delhi - 110009 although he has no right, title or interest in the aforesaid property or any other property of the testator movable or immovable.

5. Further his said son, Shri Sunil Kant, has mischievously caused a false entry of Rs. 50,000/- (Rupees fifty thousand only) in his savings account 5501 with Oriental Bank of Commerce, Kingsway Camp, Delhi-110009 and has withdrawn the said amount in cash by three cheques under his forged signatures. Any document produced by him purporting to be executed by the testator is forgery as no documents have been executed by the testator in favour of his said son Sunil Kant or legal heirs.

6. That his sons Shri Samrat Chander and Shri Veer Bahadur are the executors of this Will."

(Emphasis supplied)

12. I will now briefly refer to the evidence led in by the petitioner to prove his case. PW-1, UDC, Office of the Sub Registrar-1, Kashmere Gate, Delhi, was examined to prove the registration of Ex. PW1/A Will.

12.1 PW2, the daughter of the testator and one of the attesting witnesses inter alia deposed that on 14.9.1998, her father called her to his house; when she reached, the other members of the family were also present; thereafter, J.S. Tuli, a friend of her brother (respondent no.2/Veer Bahadur) came; her father told her and Tuli that he desired to execute a Will; that her father requested both of them to accompany him to the office of the Sub-Registrar, Sub-Division Sadar, Delhi; that in her presence her father executed the Will in favour of the petitioner; that her father had given instructions in Hindi and the Will was prepared in English; after the Will was prepared the contents of the Will were read over and explained to her father in his vernacular language; that after understanding the contents of the Will, he signed the said Will and affixed his thumb impression; that she saw the testator affixing his signature/thumb impression on the Will; that the Will bears the signatures of her father on all pages; that she had seen her father affixing his signatures and thumb impression in the Will; thereafter she affixed her

signature and thumb impression after which J.S. Tuli (PW4) affixed his signature and thumb impression; that at the time of the execution of the Will and its registration her father was in a sound disposing state of mind and that he signed the Will voluntarily.

12.2. In the cross examination PW2 deposed that her father was mentally tensed a month before his death; that her father did not have epilepsy; that she used to visit her father of and on; her father was fully conscious and could identify them and that he was quite good in English and Urdu. She denied the suggestion that her father did not at all know Hindi and so had refused a job offer in Gandhi ashram. She further deposed that on 13/09/1998 her father called her; that she had received her father's message through a messenger who is working in the office of her brother (respondent no.2); that she had received the message on 12.9.1998; that she does not know the name of the messenger; that the petitioner was in Rohtak at that time; that her brothers Veer Bahadur (respondent no. 2) and Sunil Kant (objector/respondent no. 4) were present; that she does not know where the Registrar office of Sadar is situated; that her father had taken her to the Registrar; that she went along with her father to the Registrar's office by around 9 am; that it was she, her father and two other persons who had gone to the Registrar office; that they went to the office of the Registrar by bus; that they had proceeded to the bus Stop on foot; that on 13.9.1998 Tuli (PW-4) had also visited her father's residence; that before 13.9.1998 she had never seen Tuli; that her father went inside the court and came out; that she does not know what he did inside; that thereafter, he brought a form and got their signatures; no typing work took place in her presence and that the draft of the Will was not dictated in her presence. She denied the suggestions put to her that her father had already sold the property to the objector for consideration or that the Will was a fabricated one or that her father was not mentally sound or was not having good memory at the time of the execution of the Will or that her father was unable to walk without support. She does not know whether her father had executed any Will in favour of the objector. She had not visited any court in Delhi for signing any paper. She had signed the affidavit at Kashmere Gate and not at Tis Hazari. Thereafter, she said that she had signed the affidavit at her residence and not in the chamber of the advocate or in the court and that she does not know the contents of the affidavit.

13. The petitioner, examined as PW3, reiterated his case in the petition. He admitted that his father had executed PW-3/ R1 Mukhtyarnama in Urdu in the year 1997; Ex.PW3/R2, which is a Will dated 30.4.1998, bears the photograph of his father at point A as well as his signature at point B; that Ex.PW3/R2 does not bear the signature of any family member and is not valid; that Ex. PW3/R4 general power of attorney dated 30.04.1998 in favour of respondent no. 4 bears the signature of his father at point A; Ex.PW3/R5 is an agreement to sell and purchase dated 30.04.1998 which bears the signature of his father at point A. He denied the suggestion that the property in question had been sold to the Objector/respondent no. 4 by his father for valid consideration.

13.1 PW-3, in his cross examination, deposed that the objector since 1982 had been working in the shop in question along with his father; that he is not in cordial terms with the objector since 1998 as the latter had resorted to cheating; before that the relation was cordial; that on 31.7.1998 he had lodged an FIR against the objector on behalf of his father; that the complaint was given on 31.07.1998, but the police registered the FIR in the year 2002 on the orders of the jurisdictional magistrate; that he had no dispute with the objector before 31.07.1998; that even after registration of the FIR, there were disputes between the objector and his father; that a complaint was filed before the Executive Magistrate when the objector had illegally inducted a barber into the shop; that he used to conduct all proceedings on behalf of his father as the latter was 80 years old; that he used to make all the complaints on behalf of his father; that his father was admitted in Sunder Lal Jain Hospital in the year 1998; that he does not know the ailment of his father; that he has not filed any medical document to show that his father was medically fit.

14. PW-4, friend of respondent no. 2, deposed that he had met the testator few times when he used to visit his friend's house during which time he used to pay regards to the testator; on 30.09.1998 while he was on his way to his uncle's friend's house he had paid a courtesy visit to the house of Veer Bahadur his friend which was at about 6.30 to 6.45 PM; that the father of Veer Bahadur told him that the former wanted to make a will and that he requested his presence on the next day for the said purpose; that on the next day he did not go to the house of Veer Bahadur but he went straight from his house to Kashmiri Gate where he met Veer Bahadur, the testator and his sister (PW-2). Samrat Chandra (the petitioner) was also present. PW4 further deposed that the recitals of the

Will was dictated by the testator; that he does not know whether the assistance of any advocate had been taken; the testator narrated the recitals in Hindi; that approximately one hour might have been taken for typing the document; that he does not know whether the testator could write Hindi; that the testator could speak Hindi; that he used to speak in a mix of Hindi and Punjabi. He denied the suggestion that the testator did not know Hindi. PW-4 deposed that he does not know whether the testator was suffering from epilepsy, and that he had not noticed the same. According to PW-4, the testator had only normal problems of old age. He does not know whether the testator required any escort for his day to day activities. He also does not know whether the testator was under any treatment for epilepsy. However, he admitted that the testator had been admitted in certain hospitals for some time. PW-4 identified his signature in his affidavit marked as Ex.PW-4/DX. He admitted that in the affidavit it has been mentioned that the verification of the affidavit had been done at Mathura. However, he has not gone to Mathura. According to PW-4, the reference to the verification of the affidavit at Mathura might be a typographic mistake. He also deposed that he had not visited the Tis Hazari Court since the year 2005. He had not signed Ex.PW4/DX affidavit, and that the signature at point X and Y in the affidavit may be forged. He denied the suggestion that he did not visit Kashmere Gate or that he had not witnessed the testator affixing the latter's signatures in the will. He also denied the suggestion that Exhibit PW-1/A Will bears his forged signatures. He admitted that Veer Bahadur had told him that Sunil Kant (the objector) was in possession of the schedule shop. He denied the suggestion that the testator was seriously ill and was not in a fit state of mind to execute the will.

15. Now coming to the evidence let in by the objector/respondent no. 4. RW-1, Chief Manager of Oriental Bank of Commerce Camp Branch, Delhi deposed that Exhibit RW-1/1 is the attested statement of the savings bank account of a testator bearing account no.5501 pertaining to the period from December 1997 to February 1998; that the said statements of account bears credit of an amount of ₹20,000 each on 04.02.1998 and 10.02.1998 and a further amount of ₹10,000 on 26.02.1998. RW-1 also deposed that RW-1/2 is the statement of account of Sunil Kant (the objector) for the period of 01.07.1997 to 30.06.1997 which shows that there is a debit entry of ₹50,000 on 02.02.1998.

16. RW-2, record clerk, Sub Registrar Office, Seelampur, identified Ex. PW3/R2, the original of will dated 30.04.1998, and Ex. PW3/R4 the general power of attorney relied on by respondent no. 4/objector.

17. RW-3/Ahlmad, Court of Civil Judge, Tis Hazari Court, Delhi, produced the file relating to suit no.781/2006 and 232/2001. The plaint, written statement, in the said suits etc., have been marked as RW3/A to RW3/H.

18. Finally, the objector/respondent no. 4 examined himself as RW-4, reiterated his case in the chief examination. RW-4 identified the signature of his father at point A in RW4/5, the Special Power of Attorney. He also identified the signature of his father in RW-4/7, the letter by which possession was given to him. Exhibits RW-4/3 to RW-4/10 are the letters exchanged between the petitioner and RW-4. In the cross-examination, he deposed that during 1981 his father, who was 65 years old, was suffering from old-age issues; that in his presence his father never had any epileptic fits; that his father had been admitted in the hospital from 26.03.1998 to 04.04.1998, but he does not know what his father was suffering from. According to RW-4, he used to give money to his father to meet the latter's expenses. He denied the suggestion that after his parents shifted residence, he had never maintained them. He admitted that his father had filed a suit in the year 2001 claiming maintenance from him. He admitted that he has not been paying any maintenance to his mother till date. He further admitted that he was not looking after his mother. He admitted his father's signature at point A in Exhibit PW-1/A Will. He denied the suggestion that the amount deposited vide challan, namely RW-4/1 and RW-4/2, were in fact deposited by his father. He denied the suggestion that he had never paid an amount of ₹50,000/- to his father towards sale consideration for the purchase of the schedule property. He admitted that there are no documents to show that he had, in fact paid an amount of ₹1,00,000/- as sale consideration for the schedule property. He denied the suggestion that he had obtained the signatures of his father on blank papers while his father was recuperating from his ailments on the premise that the signatures were required for installing electricity meter in the shop. He denied the suggestion that when his father had recovered and enquired about the papers on which he had obtained the signatures of his father, he had torn some papers in the presence of his father. He denied the existence of a family arrangement, as per which he was required to pay an amount of

■400/- to his father. According to him, he had never been asked to pay ■400/- to his father till the year 2001. He also denied the suggestion that there was an agreement that he would continue to pay an amount of ■400 per month to his father until possession of half of the schedule property was given to the petitioner and half portion to him. He also denied the suggestion that he was to pay an amount of ■15,000 to the petitioner as per the family agreement arrived at. RW-4 admitted that there were family disputes with his mother since the year 1987. He also admitted that he was disowned by his father in the year 1998. RW-4 denied the suggestion that his father had cancelled all the documents dated 30.04.1998 that are relied on by him.

19. It is true, as pointed out by the learned counsel for respondent no. 4, that there are certain inconsistencies in the testimony of PW2 and PW-4, the attesting witnesses. PW-4 deposed that the petitioner was present on 14.09.1998 while the Will was being drafted and executed, whereas according to PW-2 the petitioner was never present at the spot. The petitioner, when examined as PW-3, also denied his presence at the time of the execution of the will. Now, even assuming that the petitioner was present at the time of the execution of the will, the question is, does that in any way raise any suspicion regarding the execution of the Will. It is now well settled that the mere presence of the beneficiary during the execution of a will or its registration by itself would not be an aspect to doubt the will unless vitiating circumstances are shown to exist. [Pentakota Satyanarayana v. Pentakota Seetharatnam (2005) 8 SCC 67 and Gurdev Kaur v. Kaki, (2007) 1 SCC 546]. In the case on hand, no materials have come on record to show that the petitioner had taken a prominent part in the execution of the will. Not even a suggestion is seen put to either the petitioner or his witnesses regarding any role played by the former in the execution of the will. Therefore, even assuming that the petitioner was present, that alone without anything more is not a ground to suspect the execution of the will.

20. The next inconsistency pointed out is regarding the proficiency of the testator in Hindi language and the language of the will. PW-2 deposed that her father was well-versed in English and Urdu, but did not know Hindi at all. However, PW-4 deposed that the recitals of the Will was dictated by the testator in Hindi; that the testator could speak Hindi and the testator used to speak in a mix of Hindi and Punjabi. Exhibit PW-1/A, the Will, is seen executed in the English language. Nobody, including the objector/respondent no.4, has a case that the testator did not know English. What is material is whether the testator had understood the contents of the will and executed it voluntarily. Here it is also necessary to refer to the contentions of respondent no. 4 in the reply filed to the probate petition. The relevant portion of which reads thus:

"2. That the present petition for grant of Probate is devoid of merits and based on concoction and false fabrications as well as the wheel qua which the Probate is sought is without the lawful rights of the Testator as the Testator had already sold out the said property for due consideration to the answering respondent and the fact with regard to the possession of the answering respondent is an admitted fact on record of the court as well as an admitted fact of the petitioner and other respondents also except the State. Therefore, the present petition remains meaningless invalid, unlawful and unsustainable and cannot be considered at all. As such the same is liable to be dismissed /rejected outrightly with exemplary costs.

3. That the present petition for grant of probate is a collusion petition filed by the petitioner to settle the rivalry score with the answering respondent and to derive him from his lawful right of owning the property for which he has already paid due sale consideration to the original allottee i.e Shri Ramji Dass and since last more than two decades the answering respondent is in possession and occupation of the said shop/property qua which the probate is sought by the petitioner. Therefore, the present probate petition is nothing but a counter-blast to the legal proceedings already going on in various courts of law between the parties. The non-disclosure of these facts by the present petitioner is itself evident to the malafide conduct and approaches of the petitioner who is guilty of suppressio facto as submitted above, therefore, he is not entitled for grant of any relief in respect of the property in question and as such the present petition is liable to be dismissed outrightly with an exemplary costs.

4. That the present probate petition is merely a cooked up and sham story neither supported with actual facts and circumstances of the case nor with the law of the land. and is full of defection, conjectures and utmost suspicious circumstances surrounding to the existence of the alleged Will, therefore, the said petition cannot be looked into and is liable to be rejected outrightly. The suspicious circumstances are apparent as submitted above as well as the same would be unearthed at the trial of this petition which will disentitle the petitioner from seeking the relief as claimed by him."

(Emphasis supplied)

21. Therefore, the main case of respondent no. 4 is that his father had no right to execute Ex. PW-1/A will as the property had already been conveyed to him for valid consideration. He has no specific case that the Will in question had been forged or fabricated by the petitioner and his other brother, namely, respondent no. 2. He says the execution is suspicious but does not state clearly what those suspicious circumstances are. If a person has a case of fraud, or misrepresentation, undue influence, coercion etc., then it is necessary for him to plead specifically those aspects. The burden would be on him to establish the same. In the case on hand, no such allegation is seen made.

22. The discrepancies pointed out by the learned counsel for respondent no.4, relating to the mode of travel, the time taken for drafting the will, the exact sequence of events on the date of execution, or minor variations, are irrelevant in the facts and circumstances of the case.

23. As noticed earlier, the primary contention of respondent no.4 is that his father had sold the schedule property to him and therefore, the latter did not have any authority to execute Ex. PW-1/A will. Respondent no. 4 has placed reliance on the following documents, that is, a will, General Power of Attorney, Specific Power of Attorney, possession letter and a receipt, all dated 30.04.1998. None of these documents are specifically referred to in his objections. On the other hand, he only says that he has other documents in his possession duly executed in his favour by his father to prove the cause, title and interest, ownership and possession qua the property. As to why he has not specified the details of the documents is not known. It appears that the document relied on by him were thereafter produced during the course of the trial of the case. The will relied upon by respondent no. 4 has not been proved. When this aspect was pointed out to the learned counsel for respondent no. 4, it was submitted that the same was unnecessary as it is for the petitioner to prove his case, as he was the one who sought probate. It is no doubt true that the burden is always on the propounder to prove the execution of the will. Here, he has discharged his initial burden of proving the execution of the Will. No suspicious circumstances have come out in the testimonies of the witnesses examined on behalf of the petitioner to which I have already referred to in detail, though there are certain inconsistencies, which are not quite material or relevant. Hence, the onus had shifted to respondent no. 4 to establish his contention or disprove the case of the petitioner by showing that his father had executed documents in his favour and therefore the father had no right remaining in the property to execute the Will in question. However, he has failed to establish the same. His specific contention is that he has paid an amount of ₹1,00,000 as sale consideration for the property. However, in his cross-examination, he admits that there are no documents to establish the payment of ₹1,00,000 to his father. Even assuming that the documents relied on by him were executed, the same would not confer any title on him. Admittedly, there is no registered sale deed in favour of respondent no. 4.

24. Another aspect that needs to be noticed is the litigations that existed between the testator and the objector. Admittedly, the father had filed a suit against respondent no. 4 for recovery of possession of the schedule property. Respondent no. 4 filed a suit for specific performance of the documents dated 30.04.1998 against his father. The father, in his written statement dated 23.11.2000, in the said suit contended that respondent no. 4 had taken his signatures on blank papers while he was bedridden and had created documents. When he came to know of the same he executed a deed of cancellation dated 27.10.1998 by which all those documents relied on by respondent no. 4 have been cancelled. Going by the materials on record, the father had contended that in the litigations with respondent no. 4 that there was a family settlement dated 19.08.1989, by which it was agreed that half portion of the schedule property, that is, the rear portion would be allotted to the petitioner and the front portion would be given to respondent no. 4 and that the petitioner and respondent no. 4 would pay an amount of ₹400 to the testator for the use and occupation of the schedule property. However, respondent no. 4 failed to meet his obligation. Alleging so, a suit was filed by the father against respondent no. 4 for recovery of possession and occupancy charges. It is pertinent to note that the mother and the sister, who admittedly are not beneficiaries to the will, have given their no objection to the probate petition. Respondent no. 4 has no case that both his mother and sister are in inimical terms with him. Therefore, there is no reason as to why they should also support the case of the petitioner or act against the case of respondent no.

4. From a whole reading of the materials on record, it appears that the father was initially inclined to give the property in favour of respondent no 4. But subsequently, relations became strained, and the father disowned his son, respondent no. 4 and refused to give

him any property. It is true that the petitioner, when cross-examined as PW-3, admitted that he was the person who was conducting all the litigations on behalf of his father. But as noticed earlier, respondent no. 4 has no case that there was any undue influence or coercion that was exerted by the petitioner or others in the execution of the will in question. He also has no case that the suits filed by the father were actually filed by the petitioner, without the knowledge of his father. Respondent no. 4 has not placed on record to discredit the validity of the will or to conclude that the testator was not in a sound disposing state of mind. In fact, the materials brought on record affirm that the testator had knowingly and intentionally excluded respondent no.4 from his last and final will. In view of the above discussion, I find no infirmity in the impugned judgment calling for interference by this Court.

25. In the result, the appeal, sans merit, is dismissed.

26. Application(s), pending if any, stand closed.