# Legal Case Summary

Case Title: Anil Kak vs Kumari Sharada Raje & Others

Citation: AIR 2008 SC 2195, (2008) 7 SCC 695

Date of Judgment: 24 April 2008

Bench: Justice S.B. Sinha, Justice V.S. Sirpurkar

Author of Judgment: Justice S.B. Sinha

## Parties Involved

Appellant: Anil Kak

Respondents: Kumari Sharada Raje & Others

## Background / Facts of the Case

The case revolves around the probate of two Wills allegedly executed by Maharani Sharmishthabai Holkar. The first Will dated 23.08.1978 was in favor of Kumari Sharada Raje. The second Will dated 04.11.1992 revoked the earlier one and appointed Anil Kak and K.R.P. Singh as executors, distributing properties between daughters and grandchildren. The High Court refused probate for both Wills citing suspicious circumstances and incompleteness due to unsigned appendices.

## Legal Issues Raised

1. Validity of the Will dated 04.11.1992 and its appendices.

2. Whether the Will was executed with a sound mind and free will of the testatrix.

3. Applicability of incorporation by reference for unsigned appendices.

## Judgment / Decision

The Supreme Court upheld the High Court's decision denying probate of both Wills. It ruled that the unsigned appendices formed an inseparable part of the 1992 Will and were not proved to have existed at the time of execution. The Will was deemed incomplete and surrounded by suspicious circumstances, including the active involvement of the beneficiary (Anil Kak) and lack of attestation on key documents.

## Final Order

• Appeals dismissed.

• Probate denied for both Wills.

• Costs imposed: Rs. 50,000/-

## Relevant Legal Principles & Precedents

• Indian Succession Act – Sections 63, 64, 87, 103

• Indian Evidence Act – Section 68

• Principles of incorporation by reference and animus attestandi

• Cases cited: William Henry Singleton, Sarabjit Rick Singh, B. Venkatamuni v. Ayodhya Ram Singh

## Key Takeaways

- A Will must be complete and executed without suspicious circumstances.

- Unsigned appendices cannot be incorporated by reference unless they existed at the time of execution.

- Courts are cautious where executors are also major beneficiaries.

- Animus attestandi and full compliance with attestation laws are critical for a valid Will.