



**HIGH COURT OF JAMMU, KASHMIR & LADAKH
AT JAMMU**

WP(C) No. 2700/2026

Rakesh Kumar

.....Appellant(s)/Petitioner(s)

Through: Mr. Navneet Dubey, Adv.

vs

U. T. of J&K and others

..... Respondent(s)

Through: Ms. Nisha Kangotra, Adv. vice
Ms. Monika Kohli, Sr. AAG

Coram: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

ORDER
02.09.2026

1. The petitioner, through the medium of instant petition, has challenged order dated 31.07.2026 passed by respondent No. 3, whereby application of the petitioner seeking attestation of Mutation of Inheritance in his favour on the basis of a Will, has been rejected on the ground that the same has not been probated.
2. Issue notice to the respondents. Ms. Nisha Kangotra, Advocate appearing vice Ms. Monika Kohli, Sr. AAG accepts notice on behalf of the respondents.
3. As per unamended Section 213 of the Indian Succession Act, 1925, was in operation prior to the amendment effected to the said Act in the year, 2025, no right as executor or legatee can be established in any Court of Justice, unless a Court of competent jurisdiction in India has granted probate of the Will under which the right is claimed, or has granted letters of administration with the Will or with a copy of an authenticated



copy of the Will annexed. Vide Act No. 39 of 2025, the Indian Succession Act, 1925 stands amended and section 213 of the said Act has been omitted.

4. In view of the aforesaid development, the requirement of obtaining the probate of a Will before claiming right under a Will is not mandated in law. Therefore, the action of the respondent No. 3 in refusing to consider the case of the petitioner for attestation of Mutation of Inheritance, on the basis of a Will in his favour, is not sustainable in law.
5. Accordingly, the impugned order of rejection dated 31.07.2026 is set aside and respondent No. 3 is directed to reconsider the case of the petitioner for attestation of Mutation of Inheritance on the basis of the Will in accordance with law. Let the entire exercise shall be completed by respondent No. 3 within a period of one month from the date a copy of this order is made available in the office of Tehsildar Ghagwal, respondent No. 3, herein.

(SANJAY DHAR)
JUDGE

Jammu
02.09.2026
Rakesh PS

Whether the order is speaking: Yes/No
Whether the order is reportable: Yes/No