

O.P.No.239 of 2014**R.SUBBIAH, J**

This petition has been filed under Sections 222 and 276 of the Indian Succession Act, read with Order XXV, Rule 4 of O.S. Rules, for the grant of Probate in respect of the last Will and Testament of one deceased D.Padmanabam.

2.In the petition, it is stated that the petitioner is the husband of the first respondent. The deceased D.Padmanabam died on 24.10.2010 at Old No.10, New No.19, Second Street, Somasundara Bharathi Nagar, Vadapalani, Chennai – 26 and he was ordinarily residing in the said address. The deceased was in possession of the property within the State of Tamil Nadu within a jurisdiction of this Court. The deceased died as bachelor and the only second class legal heir is the first respondent herein. The deceased D.Padmanabam during his life time, registered a Will on 18.10.1993 as Document No.200 of 1993 registered in the Sub Registrar Office, Kodambakkam. The deceased possessed the property bearing Old Door No.10, New No.19, Second Street, Somasundara Bharathi Nagar, Vadapalani, Chennai – 26 measuring 0.53.0 sq. mtrs. and constructed a superstructure over the said land. The parents of the deceased

predeceased him. The petitioner is the executor of the Will and after the demise of the deceased D.Padmanabam, he could not be able to probate the Will as he was unable to get the rejection letter from the Tahsildar regarding second class legal heirship certificate. The amount of assets which are likely to come into the petitioner's hands does not exceed in the aggregate sum of Rs.1,00,00/- and the net amount of the assets, after deducting all items which the petitioner is by law allowed to deduct is of the value of Rs.99,000/-. The petitioner undertakes to duly administer the property and credits of the deceased D.Padmanabam and in any way concerning the Will by paying first his debts and then the legacies therein bequeathed so far as the assets will extend and to make a full and true inventory thereof to the Court within six months from the date of grant of probate to the petitioner. The petitioner has impleaded all the next of kin or other persons interested as party respondents. There is no other next of kin or other persons interested to be impleaded. No application has been filed in any other Court for the probate of the Will of the said deceased or Letters of Administration with or without the Will annexed to his property. Hence, the petition.

3. The petitioner was examined as P.W.1 and he had narrated

the averments made in the petition stating that he has filed this petition for the grant of probate in his favour in respect of the Last Will and Testament executed by the testator on 18.10.1993. His wife's brother D.Padmanabam died on 24.10.2010. Ex.P1 is the computer generated copy of the death certificate of the petitioner's brother-in-law D.Padmanabam, who died on 24.10.2010. Ex.P2 is the original registered Will dated 18.10.1993 executed by D.Padmanabam, which was registered as Document No.200/1993 before the SRO, Kodambakkam. Ex.P3 is the original certificate dated 15.10.2012 issued by the Tahsildar, Mylapore-Guindy Taluk, Chennai. Ex.P4 is the affidavit of assets showing the net value of the property for Rs.99,000/-. Ex.P5 is the consent affidavit given by the first respondent stating that she has no objection for grant of probate in respect of the Will executed by the deceased D.Padmanabam on 18.10.1993. Ex.P6 is the consent affidavit given by the second respondent stating that she has no objection for grant of probate in respect of the Will executed by D.Padmanabam on 18.10.1993. Ex.P7 is the consent affidavit given by the third respondent stating that she has no objection for grant of probate in respect of the Will executed by D.Padmanabam on 18.10.1993. The Will Ex.P2 has been attested by two attesting witnesses namely, C.V.Janakiraman and V.Vajiravelu. The petitioner has not filed any petition before any other Court

seeking the same relief.

4.From the averments made in the petition and the deposition of P.W.1 supported by documents Ex.P1 to P7, it is clear that the petitioner has proved his claim and there is no contra evidence. Hence, I am satisfied that the petitioner is entitled to the relief sought for.

5.The Original petition is ordered. Grant probate of the Will in respect of the petitioner.

13.02.2015

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