

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(TESTAMENTARY AND INTESTATE JURISDICTION)

DATED, THE 27TH DAY OF OCTOBER 2015

THE HON'BLE MR.JUSTICE K.RAVICHANDRABAABU

OP.NO.212 OF 2013

In the matter of the Indian
Succession Act XXXIX1925
and

In the matter of Last Will
and Testament of
Mr.M.Raji Naickker
(deceased)

R.Boopathi
s/o Late Mr.Raji Naickker
No.1/124, Periyar Street,
Chengutuvan Nagar
Menambedu,
Chennai - 600 053.

...Petitioner

AND

1.E.Kousalya,
W/o.R.Elumalai,
No.7 Dharmaraja Kovil Street,
Sholinganallur,
Chennai-119.

2.E.Jeya Lakshmi,
W/o.Elumalai,
No.20 Gandhiyar Street,

***Velachery**

***Chennai-42**

Amended as per order dated

14.02.2014 in application

No.1090 of 2014 in Op.No.212 of 2013

3.D.Durai,
No.16/30C, Sir Ivan Stedford Hospital Road,
Solapuram,
Ambattur,
Chennai-53

4.D.Shanmugam,
No.16/30C,Sir Ivan Stedford Hospital Road,
Solapuram,
Ambattur,
Chennai-53.

5.D.Sagunthala
W/o.B.Basker,
No.12/8 Old E.S.I.Street,
Ramapuram,
Ambattur,
Chennai-600 053.

6.D.Senthamarai,
W/o.E.Murugan,
No.7 Pilaiyar Kovil Street,
Irumbulicheri Village,
Thirukalukunram,
Chengalpattu-603 109.

7.D.Dhanalakshmi,
W/o.V.Sivakumar,
No.1/1 Shakthi Nagar 1st Street
Periyar Nagar North,
Choolaimedu,
Chennai-94

8.D.Karpagam
W/o Dhayanithi,
No.1 Bhavani Flats
Kamarajar Street,
Kovilambakkam,
Chennai.

...Respondents

This Original Petition praying that this Hon'ble Court be pleased to allowed to prove the will in common form, and that probate thereof,to have effect limited to the State of Tamil Nadu, May be granted to him.

This Original Petition coming on this day before this court for hearing the court made the following order:

This petition has been filed under Section 222 and 276 of the Indian Succession Act, 1925 read with Order XXV, Rule 4 of O.S. Rules, for the grant of Probate in respect of the last Will and Testament of M.Raji Naickkar.

2. In the petition, it is stated that the petitioner is the son of the deceased M.Raji Naickkar and the respondent Nos. 1 and 2 are the daughters of the deceased M.Raji Naickkar. Mrs.Chandra, who is another daughter of the deceased M.Raji Naickkar, passed away on 03.10.2005, leaving behind her sons and daughters and they were impleaded as 3rd to 8th respondents in this petition. The deceased M.Raji Naickkar died on 07.09.2000 and his wife died on 22.06.2010. It is stated that the deceased M.Raji Naickkar executed the Last Will and Testament on 30.10.1991 at the office of the Sub Registrar, Thyagarayanagar, Chennai. The deceased has appointed the petitioner as the Executrix. The assets that are likely to come to hands of the petitioner does not aggregate the sum of Rs.77,40,000/- and the net amount of the said assets, after deducting all items which the petitioner by way allowed to deduct, is of the value of Rs.77,20,000/-. The petitioner undertakes to administer the

properties and credits of the deceased M.Raji Naickker and to file the 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 respondents, though served have not chosen to appear either in person or through counsel. Therefore, they were set exparte on 22.07.2015 and consequently, exparte evidence was taken.

4. 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 30.10.1991.

Ex.P.1- is the computer generated death certificate of deceased M.Raji Naickker who died on 07.09.2000.

Ex.P2- is the original registered Will dated 30.10.1991 executed by the deceased M.Raji Naickker registered as Doc. No. 104 of 1991, at SRO, Thyagaraja Nagar.

Ex.P3- is the original death certificate of elder sister Mrs.D.Chandra, who expired on 03.10.2005.

Ex.P4- is the Original Death Certificate of mother R.Muniyammal dated 22.06.2010.

Ex.P5- is the Original Legal Heirship Certificate of mother R.Muniyammal dated 07.09.2012.

Ex.P6- is the copy of sale deed dated 06.10.1961 executed in favour of the deceased in respect of property mentioned in the Will.

5. The Will Ex.P2 has been attested by two attesting witnesses namely Mr.G.Velappan and Mr.C.Sabapathy. P.W.1 has stated in the evidence that he has not filed any petition before any other Court seeking the same relief.

6. Mr.G.Velappan was examined as P.W.2. P.W.2 has stated in his evidence that the testator has executed the last will and testament, Ex.P2 on 30.10.1991 in his presence and in the presence of Mr.C.Sabapathy and he along with Mr.C.Sabapathy has attested in Ex.P2 Will. He also stated that the testator was in a sound and disposing state of mind, memory at the time of execution of Ex.P2 Will. Ex.P7 is the affidavit filed by P.W.2.

7. From the averments made in the petition and the deposition of P.Ws.1 and 2 supported by documents Exs.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.

8. The original petition is ordered. Grant probate of the Will in respect of the petitioner.

Sd/K.R.C.B.J

27.10.2015

//Certified to be a true copy//

Dated this the day of 2016

S.s/16.03.2016

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.

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