

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

WEDNESDAY, THE 29TH DAY OF JUNE 2016

THE HON'BLE MR.JUSTICE M.M.SUNDRESH

OP.NO.979 OF 2015

In the matter of the Indian
Succession Act 1925, (Act XXXIX
of 1925)

and

In the Matter of the Last
Will and Testament of
S.Subbammal (Deceased) (Died
on 24.01.2015)

Dr.Jochen Albrecht

...Petitioner

-Vs-

1.T.A.Ramasubrahmanyam

2.R.Laxmi @ laxmi Ramasubramanian

....Respondents

This Original Petition praying that this Hon'ble
Court be pleased that he may be allowed to prove the Will
in common form and that probate thereof, to have effect
limited to the State of Tamilnadu 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 Sections 222, 255
and 276 of the Indian Succession Act, 1925 read with Order
XXV, Rule 5 of O.S. Rules, for the grant of Probate in

respect of the last Will and Testament of the deceased S.Subbammal.

2.In the petition, it is stated that the deceased S.Subbammal died on 24.01.2015 at Old No.8, New No.17, Casa Major Road, Egmore, Chennai - 600 008 and she was ordinarily residing at the said address and also possessed immovable properties within Tamil Nadu and within the jurisdiction of this Court. The deceased S.Subbammal executed her last Will and Testament on 16.05.2011 and the petitioner herein is the executor named in the Will. The said Will is an unregistered Will. In the petition, it is further stated that the amount of assets which is likely to come into the petitioner's hands does not exceed in the aggregate sum of Rs.79,82,000/- 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.79,82,000/-. The petitioner has impleaded all the next of kin or other persons interested as respondents and there is no next of kin or other persons interested to be impleaded. The mother of the testatrix predeceased her on 30.04.1989. Respondents 1 and 2 are the husband and daughter of the testatrix. The petitioner is the son-in-law of the testatrix. The petitioner undertakes to duly administer the property and

credits of the deceased S.Subbammal and in any way concerning the Will by paying first her 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 and also to render to this Court a true account of the said properties and credits within one year from the said date. 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 her property and credits.

3. The petitioner herein examined himself as P.W.1 and marked Exs.P1 to P6. Ex.P1 is the computer generated death certificate of the petitioner's deceased mother-in-law S.Subbammal, who died on 24.01.2015. Ex.P2 is the original unregistered last Will and Testament dated 16.05.2011, executed by the petitioner's deceased mother-in-law S.Subbammal. This Will was attested by two attesting witnesses namely Miss Geetha Veliah and Dr.K.R.Sekar. Ex.P3 is the certified copy of legal heirship certificate dated 06.02.2015 in respect of the petitioner's deceased mother-in-law S.Subbammal. Ex.P4 is

the affidavit of assets showing the net value of the property as Rs.79,82,000/-. Ex.P5 is the copy of paper publication effected in one issue of Tamil daily 'Malai Sudar' dated 19.04.2016. Ex.P6 is the copy of paper publication effected in one issue of English daily 'New Today' dated 26.04.2016. He has further stated in his evidence that the petitioner has not filed any other petition before any other Court seeking the same relief.

4. One of the attestors of the Will dated 16.05.2011 viz., Miss.Geetha Veliah was examined as P.W.2. In her evidence, P.W.2 has stated that the testatrix executed her last Will and Testament on 16.05.2011 in her presence and in the presence of one Dr.K.R.Sekar. At the request of the testatrix, P.W.2 subscribed her signature as first attesting witness along with Dr.K.R.Sekar, who attested the Will as the second attesting witness in the presence of the testatrix. The testatrix subscribed her signature at the foot of every page of Ex.P2-Will in the presence of the attesting witnesses. While executing the Will, the testatrix was in a sound and disposing state of mind and memory and understanding.

5. The second respondent herein, namely, Mrs.R.Laxmi @ Laxmi Ramasubramanain, daughter of the deceased, was examined as R.W.1. In her evidence, R.W.1 has stated that the testatrix executed a Will and Testatment on 16.05.2011. The petitioner herein, who is her husband, was appointed as Executor to the Will-Ex.P2. She has no objection in granting Probate in respect of last Will and Testament dated 16.05.2011 executed by the testatrix.

6.From the averments made in the petition and the deposition of P.W.1 supported by documents, 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.

7.The Original Petition is ordered. Grant probate of the Will in respect of the petitioner.

Sd/M.M.S.J

29.06.2016

//Certified to be a true copy//

Dated this the day of 2016

S.s/27.09.2016

COURT OFFICER

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