

O.P.No.320 of 2009**M.M.SUNDRESH, J**

This petition has been filed under Sections 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 the deceased A.Dhandapani.

2.Heard the learned counsel appearing for the petitioner.

3.In the petition, it is stated that the deceased A.Dhandapani died on 13.11.2004 at No.37/13 P Block, Agathiyar Nagar, Villivakkam, Chennai - 49 and he was ordinarily residing at the said address. The deceased executed his last Will and Testament dated 01.10.2004 and the same was registered as Doc.No.55 of 2004 on the file of the SRO, Villivakkam and the petitioner has been appointed as an executor in the Will. The deceased is stated to be the maternal uncle of the petitioner. The deceased left behind the schedule mentioned property. The wife of the deceased also died on 14.09.2007. The deceased has no issues and the parents of the deceased predeceased him. The deceased has no second class legal heir except the petitioner. The

amount of assets which is likely to come to the petitioner's hands does not exceed in the aggregate sum of Rs.9,00,900/- and the net amount of the said assets after deducting all the items, which the petitioner is by law allowed to deduct is only of the value of Rs.8,80,900/-. The petitioner undertakes to duly administer the property and credits of the deceased A.Dhandapani 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 and also to render to this Court a true account of the said property 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 his property.

4.The petitioner examined himself as P.W.1 and he had narrated the averments made in the petition stating that the petitioner 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 01.10.2004. The petitioner marked the following documents viz., Exs.P1 to P6:

Ex.P1 is the original death certificate of the petitioner's maternal uncle A.Dhandapani, who died on 13.11.2004.

Ex.P2 is the original registered Will dated 01.10.2004 executed by the petitioner's maternal uncle A.Dhandapani, which was registered as Doc.No.55 of 2004 on the file of the SRO, Villivakkam.

Ex.P3 is the original death certificate of R.Bhuvaneswari, wife of the deceased A.Dhandapani, who died on 14.09.2007.

Ex.P4 is the affidavit of assets showing the net value of the property as Rs.8,80,900/-.

Ex.P5 is a copy of paper publication effected in one issue of Tamil Daily Makkal Kural dated 30.01.2013.

Ex.P6 is a copy of paper publication effected in one issue of English Daily Trinity Mirror dated 05.02.2013.

5.One of the attestors of the Will dated 01.10.2004 viz., S.Ramesh was examined as P.W.2. In his evidence, P.W.2 has stated

that the testator executed his last Will and Testament on 01.10.2004 in his presence and in the presence of one V.Murali. At the request of the testator, P.W.2 subscribed his signature as the first attesting witness along with V.Murali, who attested the Will as the second attesting witnesses in the presence of the testator. While executing the Will, the testator was in a sound and disposing state of mind, memory and understanding. P.W.2 was also one of the identifying witnesses at the time of registration of the Will. Ex.P7 is his affidavit in this regard.

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

23.11.2016

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