

O.P.No.398 of 2016**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 P.V.Venkateswaran.

2.In the petition, it is stated that the deceased P.V.Venkateswaran died on 11.02.2016 at H-23 B, Kamaraj Nagar, South Avenue, Thiruvanmiyur, Chennai - 41. The deceased was ordinarily residing at the said address. The deceased executed his last Will and Testament dated 28.10.2015. The first petitioner is a distant nephew of the wife of the deceased and the second petitioner is the son of the second elder sister of the deceased. The first respondent is the eldest sister of the deceased and respondents 2 to 4 are the daughter and sons of the second elder sister of the deceased. The wife of the deceased as well his parents predeceased him and the deceased has no issues. The petitioners are the executors named in the Will. The amount of assets which is likely to come to the petitioners' hands does not exceed in the aggregate sum of

Rs.1,26,52,571.23 and the net amount of the said assets after deducting all the items, which the petitioners are by law allowed to deduct is only of the value of Rs.1,26,52,571.23. The petitioners have impleaded all the next of kin of the deceased and other persons interested as respondents and there is no next kin or other persons interested to be impleaded. The petitioners undertake to duly administer the property and credits of the deceased P.V.Venkateswaran 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 petitioners 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.

3.The first petitioner examined himself as P.W.1 and he had narrated the averments made in the petition stating that the petitioners have filed this petition for the grant of probate in their favour in respect of the Last Will and Testament executed by the

testator on 28.10.2015. The first petitioner marked the documents viz., Exs.P1 to P15. Ex.P1 is the computer generated death certificate of Venkatarama Iyer (father of the testator), who died on 11.04.1977. Ex.P2 is the original Will executed by the testator P.V.Venkateswaran on 28.10.2015. Ex.P3 is the original death certificate of Veeralakshmi (mother of the testator), who died on 27.07.1983. Ex.P4 is the original death certificate of Lakshmi (sister of the testator), who died on 20.01.2007. Ex.P5 is the computer generated death certificate of P.V.Jayalakshmi (wife of the testator), who died on 29.11.2013. Ex.P6 is the computer generated death certificate of the testator P.V.Venkateswaran, who died on 11.02.2016. Ex.P7 is the photocopy of the property tax receipt in respect of the property mentioned in the Will. Ex.P8 is the certified copy of the letter dated 23.02.2016 issued by Tamil Nadu State Apex Co-operative Bank Limited, Thiruvannamiyur Branch showing the various deposits and total balance held by the deceased P.V.Venkateswaran. Ex.P9 is the certified copy of the letter dated 24.02.2016 issued by Canara Bank, Thiruvannamiyur Branch showing the details of the deposits held by P.V.Venkateswaran. Ex.P10 is the certified copy of the letter dated 01.03.2016 issued by Indian Bank, LB Road Branch showing the deposits and balance held by P.V.Venkateswaran. Ex.P11 is the photocopy of the first petitioner's

driving license. Ex.P12 is the photocopy of voter identity card issued by Election Commission of India in respect of the second petitioner. Ex.P13 is the affidavit of assets showing the net value of the estate as Rs.1,26,52,571.23. Ex.P14 is a copy of the paper publication effected in one issue of Tamil Daily Makkal Kural dated 04.09.2016. Ex.P15 is a copy of the paper publication effected in one issue of English Daily News Today dated 11.09.2016.

4.One of the attestors of the Will dated 28.10.2015 viz., S.Narayanamoorthy was examined as P.W.2. In his evidence, P.W.2 has stated that the testator executed his last Will and Testament on 28.10.2015 in his presence and in the presence of one S.Ganesan. At the request of the testator, P.W.2 subscribed his signature as first attesting witness along with S.Ganesan, who attested the Will as the second attesting witness in the presence of the testator. While executing the Will, the testator was in a sound and disposing state of mind, memory and understanding. Ex.P16 is his affidavit in this regard.

5.Another attestor of the Will dated 28.10.2015 viz., S.Ganesan was examined as P.W.3. In his evidence, P.W.3 has stated that the

testator executed his last Will and Testament on 28.10.2015 in his presence and in the presence of one S.Narayanamoorthy. At the request of the testator, P.W.3 subscribed his signature as second attesting witness along with S.Narayanamoorthy, who attested the Will as the first attesting witness in the presence of the testator. While executing the Will, the testator was in a sound and disposing state of mind, memory and understanding. Ex.P17 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 petitioners have proved their claim and there is no contra evidence. Hence, I am satisfied that the petitioners are entitled to the relief sought for.

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

26.10.2016

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M.M.SUNDRESH, J

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