

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(TESTAMENTARY AND INTESTATE JURISDICTION)

TUESDAY, THE 25TH DAY OF JULY 2017

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

O.P.No.156 of 2017

In the matter of the Indian
Succession Act XXXIX of 1925

And

In the matter of Last Will and
testament of s.kalyanasundaram
(deceased)

Mr.S.lakshminarayanan,
S/o.Late R.Sambasivam,
Plot Mo.AP1146, Door No.15,
75th Street, 12th Sector,
K.K.Nagar West,
Chennai-600 078.

...Petitioner

-Vs-

1.V.Rajalakshmi,
W/o.late s.Vaidyanathan,
Plot No.AP1146, Door No.15,
75th Street, 12th Sector,
K.K.Nagar West,
Chennai-600 078.

2.S.Balasubramanian,
S/o.late R.Sambasivam,
No.9, Sadayapan Street,
R.A.Puram,
Chennai-600 028.

3.N.Rajagopal,
S/o.late S.Natarajan,
Plot No.AP1146, Door No.15,
75th Street, 12th sector,
K.K.Nagar West,
Chennai-600 078.

Original Petition praying that this Hon'ble Court be
pleased to that this Hon'ble Court may be allowed to prove
the will in common form, and that probate thereof, limited
to the State of Tamil Nadu may be granted to him in respect
of the property specified in the schedule hereto.

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 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 S.Kalyanasundaram.

2.In the petition, it is stated that the deceased S.Kalyanasundaram died on 18.09.2016 at Plot No.AP1146, Door No.15, 75th Street, 12th Sector, K.K.Nagar West, Chennai 600 078 where he was then residing possessed of property within District of Chennai Corporation limits and within the jurisdiction of this Court. The deceased was ordinarily residing at the said address. The deceased executed a Will dated 06.03.2010 in the presence of the witnesses. The wife of the deceased S.Kalyanasundaram predeceased him. The parents of the deceased are also predeceased him. The said deceased at the time of his death left the petitioner and his brothers. The second respondent, namely, S.Balasubramanian is the brother of the deceased. He is presently living at Chennai. The other brothers of the deceased who were are S.Vaidyanathan and S.Natarajan died. S.Vaidyanathan left his wife, namely, V.Rajalakshmi, who is the first respondent herein, as his only heir and S.Natarajan left his son, namely, N.Rajagopal, who is the third respondent herein, as his

legal her. The wife of S.Natarajan predeceased him. The deceased had no children out of wedlock and that the petitioner and his three brothers are the class-II legal heirs of the deceased to succeed to the property of the deceased. The amount of assets which is likely to come to the petitioner's hands does not exceed in the aggregate sum of Rs.5,00,000/- 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.5,00,000/- . The petitioner has impleaded all the next kin of the deceased and other persons interested as respondents and there is no next kin or other persons interested to be impleaded. The petitioner has also obtained the consent affidavits of the respondents. The petitioner undertakes to duly administer the property and credits of the deceased S.Kalyanasundaram 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 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 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 06.03.2010. Ex.P1 is the computer generated copy of the death certificate of the petitioner's brother S.Kalyana Sundaram, who died on 18.09.2016. Ex.P2 is the original registered Will and Testament dated 06.03.2010 executed by the deceased S.Kalyana Sundaram, which was executed by two attesting witnesses namely 1.V.Krishnan and 2.G.V.Ganesan. Ex.P3 is the photo copy of the letter dated 02.02.2017 by the Tahsildar to the petitioner. Ex.P4 is the affidavit of assets showing the net value of the estate Per Rs.5,00,000/-. Ex.P5 is the consent affidavit given by the first respondent. Ex.P6 is the consent affidavit given by the second respondent. Ex.P7 is the consent affidavit given by the third respondent. Ex.P8 series (2 Nos) are the copies of the paper publication effected in one issue of Tamil daily "Makkal Kural" dated 21.05.2017 and one issue of English daily "Trinity Mirror" dated 28.05.2017.

4.One of the attestors of the Will dated 06.03.2010 viz., G.V.Ganesan was examined as P.W.2. In his evidence, P.W.2 has stated that the testator executed his last Will and Testament on 06.03.2010 in his presence and in the presence of one V.Krishnan. At the request of the

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

//Certified to be a true copy//
Dated this the day of 2017.

EM/28.07.2017 COURT OFFICER

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