

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(TESTAMENTARY AND INTESTATE JURISDICTION)

FRIDAY, THE 06TH DAY OF OCTOBER 2017

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

O.P.No.331 of 2017

In the matter of Indian
Succession Act, XXXIX of 1925

And

In the matter of the last
registered Will and testament
of V.Rajam (deceased)

Saroja Subbarathinam,
W/o.Late.Subbarathinam,
No.11/5, Seethammal Colony,
3rd Main Road,
Alwarpet,
Chennai-600 018.

...Petitioner

-Vs-

Mr.R.Venkatraman,
Son of Late.Ramachandran,
No:5-B, Ayyappan Kovil Sannathi Street,
Madipakkam,
Chennai-600 091.

...Respondent

Original Petition praying that this Hon'ble Court be pleased to that the petitioner may be allowed to prove the registered Will dated 24.10.1996, executed by the testator Late V.Rajam, at Chennai, in common form and that probate thereof, to have effect limited to the State of Tamil Nadu may be granted to the petitioner and pass such other or further orders as this Honourable Court may deem fit and proper in the circumstances of the case.

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 Indian Succession Act XXXIX of 1925 and under Order XXV Rule 4 of the Original Side Rules, High Court, Madras, for the grant of Probate in respect of the last Will and Testament of the deceased V.Rajam.

2. In the petition, it is stated that the deceased K.Rajam, W/o.Venkatasubhu, died on 25.05.2016 at No.11/5, Seethammal Colony 3rd Main Road, Alwarpet, Chennai - 600 018 and the deceased was originally the owner of the said property and when she was then originally, possessed of properties at Chennai within the jurisdiction of this Hon'ble High Court of Madras and within the State of Tamil Nadu. The petitioner is the niece of the deceased testator. The respondent is the brother of the husband of the deceased testator. The said property was originally belonged to Ms.P.L.Lakshmi and by a sale deed dated 17.02.1964 sold the said property to the testator and the same was registered as Document No.202 of 1964, on the file of the Sub-Registrar Office, Central Chennai. The said schedule mentioned property was purchased by Late V.Rajam, the maternal aunt of the petitioner, out of her own source of funds and it is herself acquired property and from the date of purchase of the said property, the said late V.Rajam was in absolute possession and enjoyment of the schedule mentioned property, with her family members. Hence

the testator Late V.Rajam, was in absolute right over the schedule mentioned property and she was in absolute possession and enjoyment of the schedule mentioned property along with her family members, jointly, till her life time. The said testator Late V.Rajam had no issues and she was taken care only by the petitioner. Late V.Raja,'s husband died on 12.12.1968 leaving behind his brother Mr.R.Venkatraman and three sisters Mrs.Lalitha, Mrs.Meenakshi and R.Lakshmi. The eldest sister Late R.Lalitha had one son named S.Chandraselar and the other two sisters Mrs.R.Meenakshi and Mrs.R.Lakshmi had no children. The eldest sister R.Lalitha died in the year 2004 and her son Late S.Chandrasekar died on 22.01.2000. The said Mrs.R.Meenakshi predeceased the testator and her date of death is not known to the petitioner. The last sister R.Lakshmi died on 15.09.2011 and she was also issueless. The said Late.V.Rajam died on 25.05.2016, at Chennai, leaving her brother's daughter Saroja Subbhurathinam and her husband's brother Mr.Venkatraman as her legal heirs. Hence the testator late V.Rajam was left behind only the petitioner and the respondent as her legal heirs. No other Class I and II legal heirs.

3. It is further stated that, before her death, the said Late V,Rajam, had duly executed a registered Will and attested by two witnesses dated 24.01.1996, thereby bequeathing the schedule mentioned property, in favour of the petitioner. The petitioner and the respondent alone are

the only surviving legal heirs of the deceased Late V.Rajam. The deceased at the time of her death possessed her absolute and full right in the schedule mentioned property within Chennai and within the jurisdiction of this Hon'ble High Court of Madras. The writing hereunto annexed now shown to the petitioner and marked with letter 'A' is the last Will and testament of the said Late V.Rajam, which was duly executed at Chennai on 24.01.1996, in the presence of the witnesses where names appear at the foot thereof. The petitioner alone is the beneficiary under the said registered Will dated 24.01.1996. The petitioner Mrs.Saroja Subbarathinam who is the brother's daughter of the testator has been appointed as the executrix of the said registered Will. The affidavits of the witnesses are filed herewith. The amount of the assets which are likely to come to the petitioner hands does not exceed in the aggregate the sum of Rs.2,35,56,000/- the net amount of the said assets after deducting all items which the petitioner is by law allowed to deduct only of the value of Rs.2,35,56,000/-. No application has been made to any District Court or delegate or to any High Court for Probate to the property more fully described in the schedule and credits.

4. The petitioner hereby undertakes to duly administer the property and credits of the said Late V.Rajam, deceased, and in any way concerning her registered Will dated 24.01.1996, by paying her debts and then the legacies thereon bequeathed, so far as the assets will extend and to

make a full and true inventory thereof and exhibit the same to this Court within six months from the date of the 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.

5. The petitioner examined herself as P.W.1 and she had narrated the averments made in the petition stating that the petitioner has filed this petition for the grant of probate in her favour in respect of the Last Will and Testament executed by the testator on 24.01.1964. The petitioner marked the documents Viz., Exs.P1 to P11.

i.Ex.P1 is the photocopy of the registered sale deed dated 17.02.1964 in favour of her aunt Mrs.V.Rajam, which was registered as Doc.No.202/1964 on the file of the SRO, Mylapore. (Marked after comparing and verifying with the original).

ii.Ex.P2 is the original registered Will and Testament dated 24.01.1996 executed by Mrs.V.Rajam, which was registered as Doc.No.4/1996 on the file of the Registrar, Central, Chennai. Ex.P2, Will has been attested by two attesting witnesses namely 1.Mr.K.Vembu and her husband 2. Mr.K.Subbarathinam

iii.Ex.P3 is the computer generated copy of death certificate of V.Rajam, who died on 25.05.2016.

iv.Ex.P4 is the original letter dated 09.12.2016 issued by the Tasildar, Mylapore.

v.Ex.P5 is the photocopy of the death certificate of Mr.S.Chandrasekar, who died on 22.01.2000. (Marked after comparing and verifying with the original).

vi.Ex.P6 is the computer generated copy of the death certificate of R.Lakshmi, who died on 15.09.2011.

Vii.Ex.P7 is the consent affidavit given by the

respondent.

viii.Ex.P8 is the affidavit of assets showing the net value of estate for Rs.2,35,56,000/-.

ix.Ex.P9 is a copy of paper publication effected in one issue of Tamil daily "Makkal Kural" dated 22.07.2017.

x.Ex.P10 is a copy of paper publication effected in one issue of English Daily "Trinity Mirror" dated 29.07.2017.

xi.Ex.P11 is a affidavit as attesting witness.

6. The learned counsel for the respondent has submitted that the respondent have no objection for allowing this petition and they have filed consent affidavit to this effect.

7. 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.

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

Sd/-C.V.K.J

06.10.2017

//Certified to be a true copy//

Dated this the day of 2017.

EM/20.10.2017

COURT OFFICER

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