

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

MONDAY, THE 24TH DAY OF JULY 2017

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

O.P.No.55 of 2017

In the matter of the Indian
Succession Act XXXIX of 1925

And

In the matter of Last will and
Testament of G.Narayanaiah,

G.Subramania Sarma,
S/o.Late G.Narayanaiah,
No.16, Sambandam Street,
Raja Annamalaipuram,
Chennai-28.

... Petitioner

-Vs-

1.G.Venkateswara Rao,
S/o.Late G.Narayanaiah,
Flat No.1, Vignesh Apartments,
Ground Floor,
3, Thiruvengadam street,
Raja Annamalaipuram,
Chennai-600 028.

2.G.Kannaiah,
S/o.Late G.Narayanaiah,
No.16, Sambandam Street,
Raja Annamalaipuram,
Chennai-28.

3.Smt.G.Meenakshi,
C/o.Dr.Manu Bhasker,
Cardiologist,
Thangam Hospital,
West Yakkara,
Palakkad-678 004.

4.Smt.G.Umashree,
W/o.Dr.Manu Bhasker,
Cardiologist,
Thangam Hospital,
West Yakkara,
Palakkad-678 004.

...Respondents.

Original Petition praying that this Hon'ble Court be pleased to that he may be allowed to prove the will in common form and that probate thereof, to have effect throughout the state of Tamil Nadu 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 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 G.Narayanaiah.

2.In the petition, it is stated that the deceased G.Narayanaiah died on 03.01.2011 at No.16, Sambandan Streeet, Raja Annamalaipuram, Chennai-28 where he was then residing possessed of house property in R.S.No.4116, measuring an extent of 1307 sq.ft. at Sambandan Street, Raja Annamalaipuram, Chennai 600 028 within the State of Tamil Nadu and within the jurisdiction of this Court. The deceased G.Narayanaiah executed his last Will and Testament on 22.08.2001 and the petitioner herein is the executor named in the Will. The petitioner and respondents 1 to 3 are sons and daughter of the deceased and fourth respondent is grand daughter of the deceased. The deceased G.Narayanaiah executed last irrevocable Will on 22.08.2001 and bequeathed his property and assets to the petitioner and other legal heirs. As per the Will, the deceased

G.Narayanaiah retained his right to enjoy the property in his lifetime and thereafter, his wife G.Krishnaveli took the house, amounts and investments and enjoyed all the incomes arising out of the property without power of alienation by way of gift, sale, exchange or mortgage. The wife of the deceased died on 19.02.2016. As per the directions of the Will, the petitioner is the Executor of the Will and the Will comes into operation. As per the terms and conditions of the Will, Rs.2 lakhs has to be given to the first respondent, Rs.2 lakhs has to be given to the second respondent, Rs.2 lakhs has to be given to the third respondent and Rs.10,000/- has to be given to the fourth respondent. As per the Will, the petitioner has also paid the said sums to the respondents. The amount of assets which is likely to come into the petitioner's hands does not exceed in the aggregate sum of Rs.1,05,02,500/- 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.Rs.1,05,02,500/-. 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 undertakes to duly administer the property and credits of the deceased G.Narayanaiah 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.

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 22.08.2001. Ex.P1 is the computer generated death certificate of the petitioner's father G.Narayanaiah, who died on 03.01.2011. Ex.P2 is the original registered Will dated 22.08.2001 executed by the petitioner's father G.Narayanaiah. Ex.P3 is the computer generated death certificate of the petitioner's mother G.Krishnaveny, who died on 19.02.2016. Ex.P4 is the photocopy of the legal heirship certificate dated 01.09.2016 in respect of the petitioner's deceased father G.Narayanaiah. Ex.P5 is the photocopy of the registered sale deed dated 18.10.1972 in favour of the petitioner's father G.Narayanaiah. Ex.P6 is the affidavit of assets showing the net value of the property as Rs.1,05,02,500/-. Ex.P7 is the paper publication effected in one issue of Tamil daily "Thina Boomi" dated 29.03.2017.

Ex.P8 is the copy of paper publication effected in one issue of English Daily "Virtual Times" dated 05.04.2017.

4. One of the attestors of the Will dated 22.08.2001 viz., P.R.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 22.08.2001 in his presence and in the presence of one K.M.Srivasthan. At the request of the testator, P.W.2 subscribed his signature as first attesting witness along with K.M.Srivasthan, 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 and memory. Ex.P.9 is his affidavit in this regard.

5.From the averments made in the petition and the deposition of P.W.1 supported by documents Ex.P1 to P8, 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.

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

sd/-C.V.K.J.
24.07.2017

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

EM/25.07.2017

COURT OFFICER

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