

O.P.No.722 of 2015

K.KALYANASUNDARAM, 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 Mrs.Sumathy Narayanaswamy.

2. In the petition, it is stated that the deceased Mrs.Sumathy Narayanaswamy died on 19.06.2015 at No.3, Ground Floor, Crescent Avenue, Kesavapermalpuram, Raja Annamalaipuram, Chennai - 600 028 where she was then ordinarily residing. The petitioner is the executor named in the will dated 22.12.2013 appointed by the deceased Mrs.Sumathy Narayanaswamy. The 1st respondent is the husband of the deceased. The deceased do not have child and the only surviving legal heir is her husband Mr.Narayanaswamy. The deceased executed her last Will and Testament dated 22.12.2013 in the presence of witnesses namely Mr.V.Narayanaswamy and Mr.Hari Krishnan. The deceased bequeathed her properties in favour of 2 to 6 respondents herein. The

2nd & 3rd respondents are the daughters of Mr.Srinivasa Rao, the brother of the deceased, the 4th & 5th respondents are the daughters of the petitioner and the 6th respondent is the daughter of the 2nd respondent. The amount of assets which is likely to come to the petitioner's hands does not exceed in the aggregate sum of Rs.50,00,000/- 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.49,80,000/-. The petitioner has 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 petitioner undertakes to duly administer the property and credits of the deceased Mrs.Sumathy Narayanaswamy 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 her property.

3. The petitioner examined herself as P.W.1 and she had narrated the averments made in the petition stating that she 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 22.12.2013. The petitioner marked the documents viz., Exs.P1 to P8. Ex.P1 is the original death unregistered Will dated 22.12.2013 executed by the deceased N.Sumathy Narayanaswamy. Ex.P2 is the computer generated copy of the death certificate of the Testatrix N.Sumathy Narayanaswamy who died on 19.06.2015. Ex.P3 is the photocopy of the registered sale deed dated 04.09.1991 in the name of the Testatrix which was registered as Doc.No.3683 of 1991 on the file of the Sub Registrar Office, Kodambakkam. Ex.P4 is the photocopy of the registered sale deed dated 24.11.1980 in the name of the Testatrix which was registered as Doc.No.1414 of 1980 on the file of the SRO, Periamet. Ex.P5 is the photocopy of the Promoter's Agreement dated 22.08.1991 entered between M/s.Sundaram Constructions and the Testatrix. Ex.P6 is the certified copy of the sale deed dated 18.02.1982 in the name of the Testatrix which was registered as Doc.No.247 of 1982 before the SRO,

Thyagaraya Nagar. Ex.P7 is the affidavit of assets showing the net value of the property as Rs.49,80,000/-. Ex.P8 (Series 2 Nos.) are the copies of paper publication effect in one issue of Tamil Daily “Makkal Kural” dated 14.04.2016 and in one issue of English Daily “News Today” dated 21.04.2016.

4. One of the attestors of the Will dated 22.12.2013 viz., Mr.P.Harikrishnan was examined as P.W.2. In his evidence, he has stated that the testatrix executed his last Will and Testament on 22.12.2013 in his presence and in the presence of the husband of the deceased viz. Mr.V.Narayanaswamy. At the request of the testatrix, P.W.2 subscribed his signature as the second attesting witness along with the husband of the deceased viz. Mr.V.Narayanaswamy who attested the Will as the first attesting witness in the presence of the testator. While executing the Will, the testatrix was in a sound and disposing state of mind, memory and understanding. Ex.P9 is his affidavit in this regard.

5. The respondents have filed their consent affidavits. In the affidavits, they have stated that they have no objection in granting

probate in favour of the petitioner.

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.

10.01.2017

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