

O.P.No.149 of 2016

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 P.Ethiraj.

2. In the petition, it is stated that the deceased P.Ethiraj died on 31.07.2011 at No.75, Mullah Sahib Street, Chennai - 600 079 where he was then ordinarily residing. The petitioner is the executor named in the will dated 20.07.2011 appointed by the deceased P.Ethiraj. The testator was a bachelor and he had one sister who predeceased him. The executor is a far relation and related in the nature of grandson and he is the sole beneficiary of the Will dated 20.07.2011. The amount of assets which is likely to come to the petitioner's hands does not exceed in the aggregate sum of Rs.4,37,801/- 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.4,37,801/-. 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 P.Ethiraj 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 he 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 20.07.2011. The petitioner marked the documents viz., Exs.P1 to P7. Ex.P1 is the computer generated death certificate of the testator herein P.Ethiraj, who died on 31.07.2011. Ex.P2 is the original Will executed by the Testator Ethiraj, on 20.07.2011. Ex.P3 is the computer generated statement given by Reliance Mutual Fund in Account No.41254385586 as on 09.10.2012 which stands in the name of the deceased P.Ethiraj. Ex.P4 is the photocopy of dividend warrant dated 11.09.2015 in Account No.10108129804 in Larson & Toubro, which stands in the name of the deceased P.Ethiraj. Ex.P5 is the photocopy of saving account passbook bearing Account No.10108129804 in State Bank of India, Nungambakkam Branch, in respect of the deceased P.Ethiraj. Ex.P6 is the affidavit of assets showing the net value of the property as Rs.4,37,801/-. Ex.P7 (Series 2 Nos.) are the paper publication

effect in one issue of Tamil Daily “Thina Boomi” dated 11.08.2016 and one issue of English Daily “Virtual Times” dated 04.08.2016.

4. One of the attestors of the Will dated 20.07.2011 viz., Mr.N.Raju was examined as P.W.2. In his evidence, he has stated that the testatrix executed his last Will and Testament on 20.07.2011 in his presence and in the presence of the Mr.Balakrishnan. At the request of the testatrix, P.W.2 subscribed his signature as the first attesting witness along with Mr.Balakrishnan who attested the Will as the second 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.P8 is his affidavit in this regard.

5. 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.

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

10.01.2017

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K.KALYANASUNDARAM, J.

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