

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 17TH DAY OF APRIL 2018

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

O.P.No.181 of 2018

In the matter of Indian
succession Act (XXXIX of 1925)
And
In the matter OF Last Will and
Testament of M.Raghavan -
(Deceased)

S.Srinivasan
83/38, Sri Vidya Apartments,
Apartment - D, Bishop Garden,
Raja AnnamalaiPuram,
Chennai 600 028.

..Petitioner

-Versus-

1. Jayalakshmi alias Jayamani
Old No.11, New No.8, Luz Avenue,
Second Street, Mylapore,
Chennai 600 004.

2. Sita Srinivasan
83/38, Sri Vidya Apartments,
Apartment - D, Bishop Garden,
Raja AnnamalaiPuram,
Chennai 600 028.

..Respondents

This Original Petition pleased to that he my be
allowed to prove the Will in common form and that probate
thereof have effect limited to the State of Tamil Nadu
may be granted.

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(1)
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 M.Raghavan.

2.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

3.In the petition, it is stated that the deceased M.Raghavan died on 20.11.2014 at his residence at No.8/11, Luz Avenue, Mylapore, Chennai 600 004. The deceased M.Raghavan and his wife Mrs.Jayalakshmi @ Jayamanithe, the first respondent herein had jointly executed their last Will and Testament dated 02.05.2010 and the same was registered as Doc.No.1628 of 1974 on the file of the SRO, Madras and the petitioner has been appointed as an executor in the Will. The petitioner is the nephew of the deceased and the first respondent is the wife of the deceased. Second respondent is the wife of the petitioner. The amount of assets which is likely to come to the petitioner's hands does not exceed in the aggregate sum of Rs.5,00,00,000/- 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.5,00,00,000/-. 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 M.Raghavan 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. All the respondents have filed their consent affidavits.

4.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 02.05.2010. The petitioner marked the following documents viz., Exs.P1 to P8:

Ex.P1 is the photocopy of the Registered Sale Deed dated 13.03.1974 in favour of M.Raghavan, which was registered as Doc.No.1628/1974 on the file of the office of the Sub-Registrar, Madras. (Marked after comparing and verifying with the original).

Ex.P2 is the original unregistered Will dated 02.05.2010 executed by the deceased M.Raghavan and his wife Mrs.Jayalakshmi @ Jayamani. Which has been attested by two attesting witnesses namely Mr.M.R.Khapali and Mr.N.Sivakumar.

Ex.P3 is the computer generated copy of death certificate of the deceased M.Raghavan, who died on 20.11.2014.

Ex.P4 is the photocopy of the Legal Heirship Certificate dated 02.02.2015 in respect of M.Raghavan. (Marked after comparing and verifying with the original).

Ex.P5 (Series) are the photocopies of the Encumbrance Certificates.

Ex.P6 is the affidavit of assets showing the net value of the estate as Rs.5,00,00,000/-.

Ex.P7 is the consent affidavit given by the first respondent Mrs.Jayalakshmi @ Jayamani.

Ex.P8 is the consent affidavit of the second

respondent Sita Srinivasan, filed on her behalf.

4. One of the attestors of the Will dated 02.05.2010 viz., M.R.Khapali was examined as P.W.2. In his evidence, P.W.2 has stated that the testator executed his last Will and Testament on 02.05.2010 in his presence and in the presence of Mr.N.K.Sivakumar. At the request of the testator and testatrix, P.W.2 subscribed his signature as the second attesting witness, who attested the Will as the first attesting witnesses in the presence of the testator and testatrix. While executing the Will, the testator and testatrix were in sound and disposing state of mind, memory, understanding and in good health. P.W.2 was also one of the identifying witnesses at the time of registration of the Will. Ex.P9 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.

Sd/.N.S.K.J

17.04.2018

//Certified to be a true copy//

Dated this the th day of 2018.

KY/21.06.2018

COURT OFFICER

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