

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 03TH DAY OF JULY 2018

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

O.P. No.29 of 2018

In the matter of Indian
Succession Act XXXXIX of 1925

and

In the matter of the Last will
and Testament of S.Narayani-
Deceased

M.Palani
S/o Late Munirathnam
No.16/47, Manavalan Street,
Vettri Nagar Extension,
Chennai 600 008.

...Petitioner

-Versus-

1.R.Mohanambal
W/o Late.Rajendran

2. T.Kirupalakshmi
W/o Late.Thanikachalam

3. R.Parthiban
S/o Late.Rajendran

4. N.Vimala
W/o Late Nagappan

5. R.Manohar
S/o Late Rajendran

All 1 to 5 residing at
No.43, Bashyam 1st Street,
Otteri, Chennai - 600 012.

6. M.Parimala
w/o Mohanraj
No.162, Vellal Street,
Purasawalkam,
Chennai 600 084.

...Respondents

Original Petition praying that this Hon'ble Court be pleased that he may be allowed to prove the Will annexed in common form and that Probate thereof to have effect limited to the State of Tamil Nadu, may b granted to the Petitioner.

This Original petition coming on this day before this Court for hearing and 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 S.Narayani.

2. The case of the petitioner is that the petitioner is the executo appointed under the Will executed by the deceased S.Narayani. The first respondent is the sister of the deceased and the respondent 2 to 5 are the children of the first respondent. The sixth respondent is the sister-in-law's daughter of the deceased. The deceased S.Narayani died on 11.05.2016. The deceased executed her last Will and Testament dated 16.06.2004. The petitioner is the sole executor appointed in the Will. The deceased had bequeathed B Schedule property in favour of her sister's children namely the respondents 2 to 5 herein. The deceased had bequethed the D schedule property mentioned in the Will to the sixth respondent. The respondents are the beneficiaries under the Will. Notice has been sent to the respondents, but none appeared. They neither consented nor objected grant of probate in favour of the petitioner. The amount of assets which is likely to come into the petitioner's hands does not exceed in the aggregate sum of Rs.30,00,000/- 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.30,00,000/-. The petitioner has impleaded all the kin of the deceased and

there is no other person interested to be impleaded. The petitioner undertakes to duly administer the property and credits of the deceased S.Narayani 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.

3. The petitioner has examined himself as P.W.1 and Ex.P.1 to Ex.P.6 have been marked.

4. P.W.1 in his evidence 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 testatrix S.Narayani on 16.06.2004. Ex.P.1 is the copy of the death certificate of the deceased S.Narayani. Ex.P.1 has been filed to prove that the deceased died on 11.05.2016. Ex.P.2 is the original registered Will executed by the deceased S.Narayani. Ex.P.2 has been executed by the deceased on 16.06.2004. Ex.P.4 is a copy of the death certificate of one Sivakumar, who is the brother-in-law of the deceased Narayani. Ex.P.5 is the affidavit assets of showing the net value of the estate of the deceased as Rs.30,00,000/-.

5. One of the attestors of the Will dated 16.06.2004 viz., P.Tharabai was examined as P.W.2. In her evidence, P.W.2 has stated that the testatrix executed her last Will and Testament on 16.06.2004 in her presence and in the presence of one M.Mohan Raj. At the request of the testatrix, P.W.2 subscribed her signature as second attesting witness along with the said Mohan Raj, who

attested the Will as the first attesting witness in the presence of the testatrix. While executing the Will, the testatrix was in a sound and disposing state of mind and in her presence the attesting witnesses subscribed their signature in the Will. Ex.P.6 is the affidavit filed by P.W.2 in this regard. The evidence of P.W.2 not only prove execution but also attestation of the Will and there is no other materials to suspect the Will.

6. In view of the above facts, I am of the view that the petitioner has proved the execution and attestation of the Will. Hence, the petitioner is entitled for the issuance of probate in favour of the petitioner.

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

Sd/- N.S.K.J

03/08/2018

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER(O.S.)

GJM-1.4.2019

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