

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(TESTAMENTARY & INTESTATE JURISDICTION)

MONDAY, THE 08TH DAY OF JANUARY 2018

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

O.P.No.407 of 2017

In the matter of Indian
Succession Act, 1925 [Act
XXXIX of 1925]

And

In the matter of the Last
Will and Testament of Tmt.
Dr.S.Abirami [Deceased]

Ms.Alarmel Valli
No.236, Kilpauk Garden Road,
Kilpauk, Chennai- 600 010

... Petitioner

-Versus-

1.R.Sivakumar
New No.26, Ormes Road,
3rd cross Street, Kilpauk,
Chennai- 600 010.

2.R.Selvarani
No.22, Jubilee Road,
Ilanji, Tirunelveli District 627805

3.C.Kavitha
No.22, Jubilee Road,
Ilanji, Tirunelveli District 627805

4.S.Sahana
New No.26, Ormes Road,
3rd cross Street, Kilpauk,
Chennai- 600 010.

5.S.Hariharan
[Minor represented by his father
and natural guardian R.Sivakumar]
New No.26, Ormes Road,
3rd cross Street, Kilpauk,
Chennai- 600 010.

6.R.Muthukumar
 Flat No.A8, 3rd Floor LA Palace Apartments,
 No.24, Ormes Road, 3rd Cross Street,
 Kilpauk, Chennai- 600 010 ... Respondents

Original Petition praying that the petitioner may be allowed to prove the Will in common form and that probate there of to have effect throughout the State of Tamil Nadu.

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 Original Side Rules, for the grant of Probate in respect of the Will in common form.

2. Heard the learned counsel appearing for the petitioner.

3. In the petition, it is stated that the deceased Dr.S.Abirami died on 19.08.2014 at New No. 26, Ormes Road, 3rd Cross Street, Kilpauk, Chennai 600 010, and she was ordinarily residing at the said address. The deceased executed her last Will and Testament dated 27.11.2013. The petitioner has been appointed as an executor in the Will. The amount of assets which are likely to come to the petitioner's hands does not exceed in the aggregate sum of Rs.10,08,51,720/- and the net amount of the said assets after deducting all items, which the petitioner is by law allowed to deduct is only of the value of Rs.9,43,92,896/-. The petitioner undertakes to duly administer the property and credits of the deceased Dr.S.Abirami 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.

4. 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.

5. The petitioner examined himself as P.W.1 and the she had narrated the averments made in the petition stating that the petitioner 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 27.11.2013. The petitioner marked the following documents viz., Exs.P1 to P8:

Ex.P1 is the settlement deed dated 30.06.1972 executed by Mr.R.Sadasivam in favour of Dr.S.Abirami.

Ex.P2 is the settlement deed dated 07.05.1981 executed by Mr.Sadasivam in favour of Dr.S.Abirami.

Ex.P3 is the original registered Will and Testament dated 27.11.2013 by Dr.S.Abirami, which was registered as Doc.No.84/2013 on the file of the Sub-Registrar, Periamet, Ex.P2 Will has been attested by two attesting witnesses namely 1.Mr.S.Raghunathan, 2.Mrs.Vanitha Ramani Manickavasagam.

Ex.P4 is the photocopy of the letter dated 02.03.2015 from the Tahsildar.

Ex.P5 is the photocopy of the payment receipt dated 05.10.2016 from RMS Infrastructure Pvt. Ltd.,

Ex.P6 is the photocopy of the payment receipt dated 17.10.2016 from Mrs.N.Solachi Achi.

Ex.P7 is the computer generated copy of the death certificate of Testatrix Dr.S.Abirami, who died on 19.08.2014.

Ex.P8 is the affidavit of assets showing the net value of estate as Rs.9,43,92,896/-

6. One of the attestors of the Will dated 27.11.2013 viz., Mr.S.Raghunathan was examined as P.W.2. In his evidence, he has stated that the testatrix executed her last Will and Testament on 27.11.2013 in his presence and in the presence of one Mrs.Vanitha Ramani Manickavasagam. At her request, P.W.2 subscribed his signature as the first attesting witness along with Mrs.Vanitha Ramani Manickavasagam, who attested the Will as the second attesting witnesses in the presence of the testatrix. 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.

7. 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 her claim and there is no contra evidence. Hence, I am satisfied that the petitioner is entitled to the relief sought for.

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

Sd/.C.V.K.J.
08.01.2018

//Certified to be a true copy//

Dated this the day of 2018.

DL/11.01.2018

COURT OFFICER

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