

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(TESTAMENTARY AND INTESTATE JURISDICTION)

FRIDAY, THE 03RD DAY OF AUGUST 2018

THE HON'BLE MR.JUSTICE R.SATHISH KUMAR

O.P.No.487 of 2017

In the matter of the Indian
Succession Act, 39/1925

And

In the matter of the last
Willand Testament of
T.M.Raghavendra Rao Deceased.

T.R.SATHYANARAYANA RAO,
S/o. Late T.M.Raghavendra Rao,
Resident of Banagalore
Now Residing at
Door No.12-A, Second Cross Street,
Venkatesapuram Colony, Ayanavaram,
Chennai 600 023.

...Petitioner

Versus

01.Tmt. Saroja,
W/o Mr. Gururaj,
D/o Late T.M. Ragavendra Rao,
No 260,Mico Layout Arakere,
Arakere, Bangalore South,
Bangalore, Karnataka State.

02.Tmt.Santhe S.Rao,
W/o S.Rao,
D/o. Late T.M.Raghavendra Rao,
Door No.29, South Mada Street,
Nungambakkam,
Chennai 600 034.

03.T.R.Rama Rao,
S/o Late T.M.Raghavendra Rao,
Door No.12, Second Cross Street,
Venkatesapuram Colony,
Ayanavaram, Chennai 600 023.

04.Mrs.Leela Anand,
W/o Late Anand,
D/o.T.M. Raghavendra Rao,
Door No.20, Kurinji Nagar,
Sundakkamuthur,
Coimbatore District- 641 010.

05.T.R. Srinivasan,
S/o.Late T.M.Raghavendra Rao,
Door No.12-A,Second Cross Street,
Venkatesapuram Colony,
Ayanavaram, Chennai 600 023.

06.Tmt.Radha Sreedhar,
W/o.Sreedhar,
D/o Late T.M. Raghavendra Rao,
Door No. N-1404,
The Metro Zone,
Jawaharlal Nehru Salai,(100 feet Road),
Anna Nagar,
Chennai 600 040.

...Respondents

Original Petition praying that this Hon'ble Court be pleased to allowed to prove the will in common from nd that probate thereof to have effect limited to the state of Tamil Nadu may be granted to him and thus render justice.

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 O.S. Rules, for the grant of Probate in respect of the last Will and Testament of the deceased T.M.Raghavendra Rao.

2. The case of the petitioner is that the petitioner is the third son of the deceased T.M.Raghavendra Rao. The deceased T.M.Raghavendra Rao died on 09.01.2014. The respondents are the other sons and daughter of the deceased. The wife of the deceased predeceased him. The deceased executed his last Will and Testament dated 13.12.1993. The petitioner is the executor named in the Will and the fifth respondent is the beneficiary under the Will. The petitioner and the respondents are the class I legal heirs of the deceased. The amount of assets which is likely to come into the petitioner's hands does not exceed in the aggregate sum of Rs.48,00,000/- 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.47,80,000/-. The petitioner undertakes to duly administer the property and credits of the deceased T.M.Raghavendra Rao 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. On the side of the petitioner P.W.1 to P.W.3 have been examined and Ex.P.1 to 20 have been marked.

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 registered Last Will and Testament executed by the testatrix on 13.12.1993. Ex.P.1 is the original registered Will executed by the deceased T.M.Raghavendra Rao. The deceased has executed the Will on 13.12.1993. Ex.P.3 and Ex.P.4 are copy of the sale deeds in favour of the deceased. Ex.P.5 is the copy of the death certificate of the deceased T.M.Raghavendra Rao. Ex.P.2 has been filed to prove that the deceased died on 09.01.2014. Ex.P.6 is the legal heirship Certificate the deceased. Ex.P.6 shows that the petitioner and the respondents are the legal heirs of the deceased. Ex.P.7 is the copy of the death certificate of the wife of the testator. Ex.P.7 shows that the wife of the testator, namely T.R.Saraswathi died on 14.11.2007. Ex.P.8 to Ex.P.10 have been filed to show the assets of the deceased. Ex.P.11 to 15 are the consent affidavits given by the respondents 1,2,3,5 and 6 for grant of probate in favour of the petitioner. Ex.P.16 is the affidavit of assets showing the net value of the estate of the deceased as

Rs.47,80,000/-. Ex.P.17 and Ex.P.18 are the paper publications and none objected for the same.

5. The attestors of the Will dated 13.12.1993 namely V.Chandramouli and S.Ramaswamy have been examined as P.W.2 and P.W.3 respectively. In their evidence, they have stated that the testator executed his last Will and Testament on 13.12.1993 in their presence. At the request of the testator, P.W.2 and P.W.3 subscribed their signature in the Will in the presence of the testator. While executing the Will, the testator was in a sound and disposing state of mind and in his presence the attesting witnesses subscribed their signature in the Will. Ex.P.19 and Ex.P.20 are the affidavits filed by P.W.2 and P.W.3 in this regard. The evidence of P.W.2 and P.W.3 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 a true copy//
Dated this the day of 2019.

IG/25.04.2019

COURT OFFICER

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