

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 25TH DAY OF JULY 2018

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

O.P.No.48 of 2018

In the matter of the Indian
Succession Act XXXIX of 1995

And

In the matter of the Last Will
and Testament of M.Murugesan -
Deceased

R.Sundarraaj
S/o. Robert
No.33, 10th Lane, Anjaneya Nagar,
Royapuram, Chennai 600 013. ..Petitioner

Vs

S.Senthuramalingam
S/o. S.T.Subbaiah
No.10/4, Ganapathi First Street,
A-Block Ponni Apartment, Avvai Nagar,
Thiruvanmiyur, Chennai 600 041. : Respondent

Original petition Application praying that this Hon'ble Court be pleased to prove the will in common form and that probate thereof, to have effect limited to the State of Tamil Nadu, be granted to him.

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 M.Murugesan.

the executor appointed under the Will executed by the deceased M.Murugesan. The respondent is the sister's son of the deceased. The parents of the respondent and the wife of the deceased predeceased the deceased. The deceased M.Murugesan died on 15.11.2012. The deceased executed his last Will and Testament dated 19.12.2010. The respondent is the beneficiary under the Will. The amount of assets which is likely to come into the petitioner's hands does not exceed in the aggregate sum of Rs.1,48,38,348/- 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.1,48,38,348/-. There is no other person interested other than the respondent to be impleaded in this petition. The petitioner undertakes to duly administer the property and credits of the deceased M.Murugesan 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.

3. On the side of the petitioner P.W.1 and P.W.2 were examined and Ex.P.1 to Ex.P.12 have been marked. On the side of the respondent, the respondent has examined himself as R.W.1 and no documents 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 M.Murugesan on 19.12.2010. Ex.P.2 is the copy of death certificate of Siromani, who died on 15.02.2000.

Ex.P.2 has been filed to show that the wife of the deceased predeceased him. Ex.P.3 is the copy of the legal

heirship certificate of the wife of the deceased. Ex.P.3 shows that the deceased is the legal heir of the wife of the deceased. Ex.P.4 is the original unregistered Will executed by the deceased M.Murugesan. Ex.P.4 has been executed by the deceased on 19.12.2010. Ex.P.5 is the copy of the death certificate of the deceased M.Murugesan. Ex.P.1 has been filed to prove that the deceased died on 15.11.2012. Ex.P.7 has been filed to prove the assets of the deceased. Ex.P.8 is the affidavit assets of showing the net value of the estate of the deceased as Rs.1,48,38,348/-. Ex.P.11 and Ex.P.12 are the paper publications, but none objected for the same.

5. One of the attestors of the Will dated 19.12.2010 viz., J.P.Ramamoorthy was examined as P.W.2. In his evidence, P.W.2 has stated that the testator executed his last Will and Testament on 19.12.2010 in his presence and in the presence of one A.Raja. At the request of the testator, P.W.2 subscribed his signature as first attesting witness along with the said Raja, who attested the Will as the second attesting witness 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.9 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. The respondent examined himself as R.W.1 and in his evidence he has stated that the testator is his maternal uncle and he has no objection for grant of probate in favour of the petitioner.

7. 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.

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

Sd/.N.S.K.J
25.07.2018

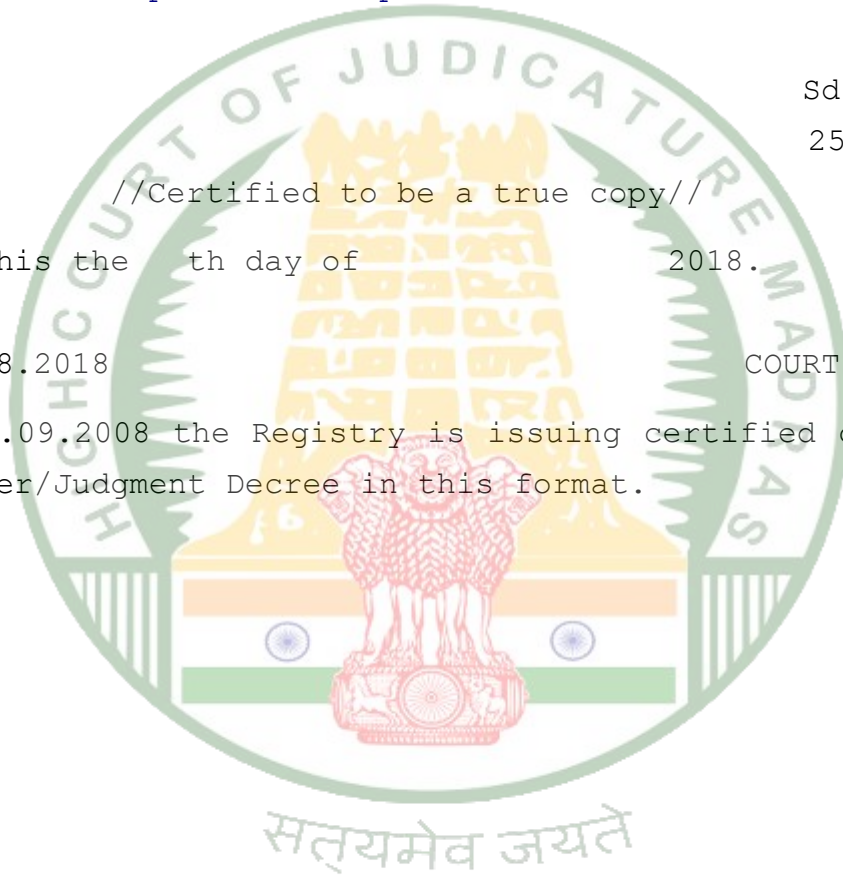
//Certified to be a true copy//

Dated this the th day of 2018.

KY/28.08.2018

COURT OFFICER

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



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