

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

DATED, THE 16TH DAY OF NOVEMBER 2018

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

O.P.No.246 of 2017

In the matter of Indian
Succession Act XXXIX of
1925

and

In the matter of the Last
Will and Testament of
S.Ramaswamy (Deceased)

1.S.Meyappan,
S/o.M.Solayappan

2.Mrs.R.A.Nagammai,
W/o.Late S.Ramaswamy

Both 1 and 2 are residing at
New No.55, Hindi Prachara Sabha Street,
Thyagarayanagar,
Chennai 600 017

....Petitioners

-vs-

1.R.Solai
Minor Represented by his Mother and Testamentary
Natural Guardian Mrs.R.A.Nagammai

2.Mrs.Visalakashi Solayappan,
W/o.M.Solayappan

Both 1 and 2 are residing at
New No.55, Hindi Prachara Sabha Street,
Thyagarayanagar,
Chennai 600 017

...Respondents

Original Petition praying that this Honble Court
be pleased to be permitted to prove the Will in common form

and that Probate thereof, limited to the State of Tamil Nadu, may be granted to them.

This Original Petition coming on this day before this court for hearing the court made the following order:

The petitioners have filed this Original Petition under Sections 222 and 276 of the Indian Succession Act, 1925 read with Order XXV Rule 4 of the High Court Original Side Rules, seeking for grant of probate in their favour, as per the last Will and testament, dated 11.04.2016, executed by the testator, deceased S.Ramaswamy.

2. It is stated by the petitioners in this Petition that first petitioner is the brother of the deceased S.Ramaswamy, the second petitioner is the widow of the deceased, first respondent, R.Solai (minor) is their son and the second respondent Mrs.Visalakshi Solayappan, is the mother of the deceased. The said S.Ramaswamy died on 28.07.2016, leaving behind him respondents 1 and 2 as his Class I legal heirs.

3. Ex.P.2 is the computer generated copy of the death certificate of the deceased. The testator has not left any other legal heir, except, the 2nd petitioner, respondents 1 and 2. Ex.P.3 is the legal heirship certificate issued in respect of the deceased/S.Ramaswamy. The deceased executed

a last Will and Testament-Ex.P.1, dated 11.04.2016, in a sound and disposing state of mind, and as per Ex.P.1, the deceased appointed his wife/second petitioner as the testamentary guardian of the first respondent. Hence, they have filed this Petition seeking for probate of the Will in their favour, for which, both the respondents 1 and 2, viz., the minor son represented by second petitioner and mother of the deceased have no objection and they have also filed consent affidavits in regard to the same marked as Exs.P.19 and P.20. The amount of assets, which are likely to come into the petitioners' hands is Rs.3,49,65,978.20, and the net amount of the said assets after deduction of all items, which the petitioners by law allowed to deduct is only of the value of Rs.3,24,76,453.20 and Ex.P.21 is the affidavit of assets, showing the net value of the assets for Rs.3,24,76,453.20. The petitioners have also made it clear that they have not moved any application before any other Court, seeking for the probate of the Will of the deceased or, any Letters of Administration with or without the Will, annexing the testator's properties or credits.

4. The petitioners have stated that, in case, probate is granted in their favour, they would undertake to duly administer the property and the credits of the deceased, in

any way concerned in the Will, by paying his debts first and then, the legacies therein bequeathed so far, as the assets will extend to, and would produce a full and true inventories thereof to the Court within a period of six months from the date of grant of probate in their favour.

5. Before the Master, i) the second petitioner, ii) one of the attesting witnesses to the Will, by name Mr.V.Vital were examined as P.W.1 and P.W.2 respectively. As per the deposition of P.W.2, the deceased S.Ramaswamy executed the Will, while he was in a sound and disposing state of mind and that at his request, P.W.2 and one D.Raguram/first attesting witness, had subscribed their signatures in the Will. Ex.P.22 is the affidavit filed by P.W.2 in this regard.

6. Heard, Mr.R.Balasubramanian, the learned counsel appearing for the petitioners.

7. Thus, on a perusal of the avements made in this Petition and the documents ranging from Exs.P.1 to P.22, it is ample clear that the petitioners herein have been appointed as Executors of the Will by the deceased, S.Ramaswamy. Therefore, I am satisfied that the petitioners have unequivocally proved their claim, and there is no contra evidence to the same. Hence, the petitioners are entitled to the relief, as sought for by

them.

8. In the result, this Original Petition is ordered, as prayed for. Office is directed to issue probate of the Will, executed by the Testator in favour of the petitioners/Executors.

Sd/.M.K.K.S.J

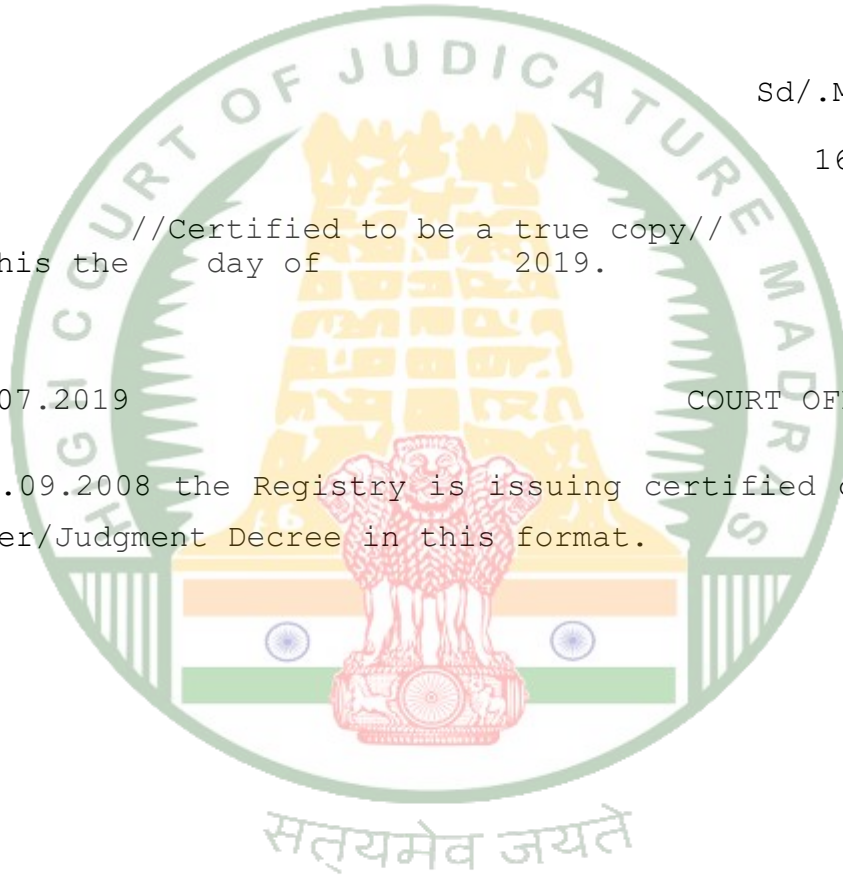
16.11.2018

//Certified to be a true copy//
Dated this the day of 2019.

R.s/02.07.2019

COURT OFFICER

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



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