

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

MONDAY, THE 21ST DAY OF JANUARY 2019

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

O.P. No.859 of 2017

In the matter of
Indian Succession Act, XXXIX
of 1925
and
In the matter of Last Will &
Testament of Late
Gangadharan Chandramouli
(deceased)

Mr.K.C.Somasekar Ayyar,
S/o.Late Mr.G.Chandramouli,
36/3, New No.40/3, Rams Apts.,
Besant Avenue Road,
Adyar, Chennai-600 020.

... Petitioner

-Versus-

1. Mrs.S.Revathi,
D/o.Late Mr.G.Chandramouli,
2/26, Thirumangai Alwar 1st Cross Street,
New Perungalathur, Chennai-600 063.
2. Mrs.Mangalam Ranganathan,
D/o.Late Mr.G.Chandramouli,
F/2, Sheron Grand,
60, Sheela Rajarathnam Street,
Devaraj Nagar, Madambakkam,
Chennai-600 126.
3. Mr.C.Kailasam,
S/o.Late Mr.G.Chandramouli,
7/27, Abdul Aziz Street,
T.Nagar, Chennai-600 017.
4. Mr.V.Sundaramurthi,
H/o.late Mrs.Rajalakshmi,
F-7A, Ashok Menor, Ruby Builders,
Easwari Nagar Extension,
Tambaram East, Chennai-600 059.

5. Mr.S.Muralikrishnan,
S/o.Late Mrs.Rajalakshmi,

B-402, Atrium, Kalashetra Road,
Thiruvanmiyur, Chennai-600 041.

6. Mrs.Malini Ramesh,
D/o.Late Mrs.Rajalakshmi,
F-7A, Late Ashok Menor,
Ruby Builders, Easwari Nagar Extension,
Tambaram East, Chennai-600 059.

... Respondents

Original Petition praying that this Hon'ble Court be pleased to prove the Will executed by Gangadharan Chandramouli on 15.03.2000 in common form and the probate thereof to have effect limited to the State of Tamil Nadu may be granted to the Petitioner herein.

This Original Petition Application 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 and under Order XXV, Rule 4 of Original Side Rules, for the grant of Probate in respect of the last Will and Testament of the deceased K.Chandramouli.

2. In the petition, it is stated that the deceased Mr. Gangadharan Chandramouli died on 13.12.2013 at No.7/27, Abdul Aziz Street, T.Nagar, Chennai-600 017, where he was ordinarily residing at the above said address. The petitioner is the executor named in the will dated 15.03.2000 appointed by the deceased Gangadharan Chandramouli. The parents of the deceased predeceased him.

The wife of the testator Mrs.Rajalakshmi predeceased and died on 12.12.2001. The son of the testator, Mr.Ganapathy died on 31.07.1996. Mr.Ganapathy did not have any issues and his wife also deserted him and subsequently, she has died. The petitioner is the son of the deceased, 1st and 2nd respondents are the daughters of the deceased and 3rd respondent is the son of the petitioner and 4th respondent is the husband of late Mrs.Rajalakshmi and son-in-law of the deceased and 5th respondent is the son of late Mrs.Rajalakshmi and grand son of the deceased and 6th respondent is the daughter of late Mrs.Rajalakshmi and grand daughter of the deceased. The amount of assets which is likely to come to the petitioner's hands does not exceed in the aggregate sum of Rs.30,00,000/- and the net amount of the said assets after deducting all the items, which the petitioner is by law allowed to deduct is only of the value of Rs.30,00,000/-. There is no next kin or other persons interested to be impleaded. The petitioner undertakes to duly administer the property and credits of the deceased Gangadharan Chandramouli, 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. 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 his property.

3. The petitioner examined himself as P.W.1 and he had narrated the averments made in the petition. He was filing his proof affidavit stating the facts of this case and the same may be treated as part and parcel of his examination-in-chief. In continuation of his proof affidavit, the following documents are marked as exhibits on his side.

1. Ex.P.1 is the original Registered Will and Testament dated 15.03.2000 executed by Mr.Gangadharan Chandramouli, which has been attested by two attesting witnesses namely Mrs.S.Kalavathi and Mr.V.Ramprasad.

Ex.P.1. Will was registered as Doc.No.34/2000 on the file of the office of Sub-Registrar, Mylapore.

Ex.P.2. is the computer generated copy of the death certificate of G.Chandramouli who died on 13.12.2013.

Ex.P.3 is the photocopy of the Legal Heirship Certificate dated 06.09.2016 in respect of Mr.Chandramouli. (Marked after comparing and verifying with the original).

Ex.P.4 is the computer generated copy of the death certificate of Mrs.C.Rajalakshmi, who died on 12.12.2001.

Ex.P.5 is the photocopy of the death certificate of Mr.Ganapathy, who died on 31.07.1996. (Marked after comparing and verifying with the original).

Ex.P.6 is the photocopy of the Legal Heirship Certificate dated 29.08.1996 in respect of Mr.Ganapathy. (Marked after comparing and verifying with the original).

Ex.P.7 is the consent affidavit given by the 1st respondent.

Ex.P.8 is the consent affidavit given by the 2nd respondent.

Ex.P.9 is the consent affidavit given by the 3rd respondent.

Ex.P.10 is the affidavit of assets showing the net value of the estate of Rs.30,00,000/- .P.W.1 has not filed any other petition before any other Court seeking the same relief.

4. One of the attestors of the Will dated 15.03.2000 viz., Mrs.S.Kalavathi was examined as P.W.2. In her evidence, she has stated that the testator Mr.Gangadharan Chandramouli is her father-in-law. The Testator executed his last will and Testament on 15.03.2000 (Ex.P1) in her presence and in the presence of Mr.V.Ramprasad. At the

request of the testator, P.W.2 subscribed her signature as the first attesting witness along with Mr.V.Ramprasad, who attested the Will (Ex.P1) as the second attesting witness in the presence of the Testator. They saw the Testator while signing in all the pages of the Will (Ex.P1). While executing the Will, the testator was in a sound and disposing state of mind, memory and understanding at the time of execution of Ex.P1 Will. P.W.2 was also one of the identifying witnesses at the time of registration of Ex.P.1 Will, registered Doc.No.34/2000 at SRO, Mylapore. Ex.P11 is her affidavit in this regard.

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

6. This Original Petition is ordered. Grant probate of the Will in respect of the petitioner.

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

21.01.2019

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

DL/04.02.2019

COURT OFFICER

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