

O.P.No.136 of 2019

SENTHILKUMAR RAMAMOORTHY, J

This petition has been filed under Sections 222 and 276 of the Indian Succession Act 39 of 1925 read with Order XXV Rule 4 of the Original Side Rules for grant of Probate in respect of the last Will and Testament dated 15.11.2017 of the deceased, Mr. K. Arunachalam.

2. I heard the learned counsel for the petitioner.

3. The learned counsel for the petitioner submitted that the petitioner is the Executor named in the said last Will and Testament dated 15.11.2017. He further submitted that the said Will was executed in the presence of two witnesses, viz., Mr.A.Shivakumar and Mrs.R.Sumathi and that the beneficiaries under the Will are the fifth and seventh respondents, who are the sons of the testator's sister. He further submitted that notice was ordered in the said petition and that all the eight respondents were duly served. Thereafter, he submitted that evidence was recorded before the learned Master. The petitioner filed a proof affidavit dated 25.11.2019 and 21 documents were exhibited through the petitioner as Exhibits P1 to P21. The following documents are marked as exhibits P1 to P21:-

1. Ex.P1 is the original Will dated 15.11.2017 executed by Mr.K.Arunachalam, which has been attested by two attesting witnesses, namely, 1.Mr.A.Siva Kumar and 2.R.Sumathi.
2. Ex.P2 is the computer generated death certificate of K.Arunachalam, who died on 10.12.2017.
3. Ex.P3 is the original burial ground report dated 11.12.2017.
4. Ex.P4 is the computer generated death certificate of S.Mary Josephine, wife of K.Arunachalam, who died on 15.05.2015.
5. Ex.P5 is the computer generated death certificate of M.Nirmala, sister of K.Arunachalam, who died on 14.09.2018.
6. Ex.P6 is the photocopy of the Legal Heirship Certificate dated --.10.2013 in respect of the deceased M.Nirmala.
7. Ex.P7 is the certified copy of the Sale Deed dated 12.03.2014 executed in favour of K.Arunachalam.
8. Ex.P8 is the original bank passbook for account No.039401000004462, maintained by K.Arunachalam with Indian Overseas Bank, Vysarpadi Branch.
9. Ex.P9 is the original bank passbook for account No.707824787, maintained by K.Arunachalam with Chennai Central Co-operative Bank Limited, R.V.Nagar Branch.
10. Ex.P10 is the original statement of accounts in respect of account No.603101502995 held by K.Arunachalam with

ICICI Bank.

- 11.Ex.P11 is the original bank passbook for the account No.10083119652 maintained by K.Arunachalam with SBI, M.K.B. Nagar Branch.
- 12.Ex.P12 is the certified copy of the last Will and Testament executed by S.Mary Josephine, wife of K.Arunachalam, registered on 24.01.1994.
- 13.Ex.P13 is the affidavit of assets showing the net value of the estate as Rs.74,50,243.39.
- 14.Ex.P14 is the consent affidavit given by the 1st respondent.
- 15.Ex.P15 is the consent affidavit given by the 2nd respondent.
- 16.Ex.P16 is the consent affidavit given by the 3rd respondent.
- 17.Ex.P17 is the consent affidavit given by the 4th respondent.
- 18.Ex.P18 is the consent affidavit given by the 6th respondent.
- 19.Ex.P19. Is the consent affidavit given by the 8th respondent.
- 20.Ex.P20 is a copy of paper publication effected in one issue of the Tamil daily “Dhina Boomi” dated 01.8.2019.
- 21.Ex.P21 is a copy of paper publication effected in one issue of the English daily “Virtual Times” dated 09.08.2019.

4. He further submitted that the said documents included the consent affidavits of respondents 1, 2, 3, 4, 6 and 8. He also pointed out that consent affidavits were not filed by respondents 5 and 7 because they are beneficiaries under the said Will.

5. The learned counsel concluded his submissions by pointing out that both the attesting witnesses to the last Will and Testament dated 15.11.2017 were examined as PW2 and PW3 so as to prove the Will.

6. Upon considering the submissions of the learned counsel and by examining the evidence, the following is evident:

(a) the testator died on 10.12.2017 at Kodungaiyur, Chennai (Ex.P2).

(b) the petitioner is named as the Executor in the Will (Ex.P1).

© an affidavit of assets was filed by the Executor (Ex.P13) and the assets of the testator consist of bank accounts in banks situated in Chennai and an immovable property in Kodungaiyur, Chennai.

(d) both the attesting witnesses adduced evidence as PW2 and PW3 to prove the execution of the Will by the testator.

7. From the foregoing, it is clear that the petitioner has proved the Will as per law. Accordingly, this Original Petition is allowed by granting

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Probate to the petitioner in respect of the last Will and Testament, dated 15.11.2017, which was executed by the late Mr.K.Arunachalam, to have effect throughout the State of Tamil Nadu.

02.12.2019

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