

Original Petition No.432 of 2019

SENTHILKUMAR RAMAMOORTHY J.

This Petition is filed under Section 222 and 276 of the Indian Succession Act, 1925 r/w Order 25 Rule 4 of the O.S. Rules for grant of probate in respect of the Last Will and Testament dated 22.10.2010 of the deceased testatrix, Smt.V.Kamalam, to and in favour of both the Petitioners, namely, K.Ramu and V.Shanthi, who are the executor and executrix under the said Will.

2. I heard the learned counsel for the Petitioners and the learned counsel for all the Respondents except the 4th Respondent.

3. The learned counsel for the Petitioners submitted that the deceased died on 08.06.2018 at Chennai and ordinarily resided at New No.5(Old No.3), Ramaswamy Maistry Street, Triplicane, Chennai – 600 005. He further submitted that the Last Will and Testament of the testatrix was executed on 22.10.2010 at the aforesaid address in the presence of two witnesses, namely, A.Dhanaraj and K.Rajagopal.

4. He also submitted that the husband of the testatrix pre-deceased her, his mother pre-deceased him and that they did not have

children. Consequently, as per Section 15(i)(b) of the Hindu Succession Act, the Class II legal heirs are the persons set out at Paragraph 6 of the Petition. He further submitted that under the said Will, the property at New No.5(Old No.3) Ramaswamy Maistry Street, Triplicane, Chennai – 600 005 was directed to be sold by the executors so as to distribute the sale proceeds in the manner specified at pages 7 to 9 of the Petition and for sharing any surplus sums remaining from bank accounts, fixed deposit etc. equally among the persons listed at page 9 of the Petition.

5. He also submitted that evidence was recorded in the matter before the learned Master, wherein the 2nd Petitioner was examined as PW-1:-

(i) Ex.P1 is the original unregistered last Will and Testament dated 22.10.2010 executed by Smt.V.Kamalam, which has been attested by two attesting witnesses, namely, Mr.Dhanaraj and K.Rajagopal.

(ii) Ex.P2 is the compute generated copy of the death certificate of the Testatrix Smt.V.Kamalam, who died on 08.06.2018. (iii) Ex.P3 is the photocopy of the Genealogy tree of the Testatrix Smt.V.Kamalam.

(iv) Ex.P4 is the photocopy of the property tax receipt dated 08.10.2018 in the name of Smt.V.Kamalam.

(v) Ex.P5 are the copies of the Hospital Bills in respect of the Testatrix Smt.V.Kamalam.

(vi) Ex.P6 is the affidavit of assets showing the net value of the estate as Rs.58,07,812.48.

(vii) Ex.P7 is the consent affidavit given by the 1st Respondent.

(viii) Ex.P8 is the consent affidavit given by the 2nd Respondent.

(ix) Ex.P9 is the consent affidavit given by the 3rd Respondent.

(x) Ex.P10 is the consent affidavit given by the 5th Respondent.

(xi) Ex.P11 is the consent affidavit given by the 6th Respondent.

(xii) Ex.P12 is the consent affidavit given by the 7th Respondent.

(xiii) Ex.P13 is the consent affidavit given by the 8th Respondent

(xiv) Ex.P14 is the consent affidavit given by the 9th Respondent.

(xv) Ex.P15 is the consent affidavit given by the 10th Respondent.

(xvi) Ex.P16 is the consent affidavit given by the 11th Respondent.

(xvii) Ex.P17 is the consent affidavit given by the 12th Respondent.

(xviii) Ex.P18 is the consent affidavit given by the 13th Respondent.

(xix) Ex.P19 is the consent affidavit given by the 14th Respondent.

(xx) Ex.P20 is the consent affidavit given by the 15th Respondent.

(xxi) Ex.P21 is the consent affidavit given by the 16th Respondent.

(xxii) Ex.P22 is the consent affidavit given by the 17th Respondent.

(xxiii) Ex.P23 is the consent affidavit given by the 18th Respondent.

(xxiv) Ex.P24 is the consent affidavit given by the 19th Respondent.

In addition, he submitted that one of the attesting witnesses, Mr.A.Dhanaraj, was examined as PW-2 so as to prove the execution of

the Will.

6. Upon considering the submissions of the learned counsel for the Petitioners and on examining the evidence on record in the matter, the following is evident:

(1) The Petitioners are the executors of the Last Will and Testament dated 22.10.2010.

(2) The Testatrix died at Triplicane, Chennai, on 08.06.2018, within the jurisdiction of this Court.

(3) An affidavit of assets was filed as Ex.P6 showing the net value of the assets as Rs.58,07,812.48.

(4) One of the attesting witnesses adduced evidence as PW-2 to prove the execution of the Will by the testatrix.

7. From the foregoing, it is clear that the Petitioners have proved the Will as per law. Accordingly, the Original Petition is allowed by granting a probate to the Petitioners in respect of the Will dated 22.10.2010 of the deceased, Smt.V.Kamalam, to have effect throughout the State of Tamil Nadu. A undertaken in paragraph 8 of

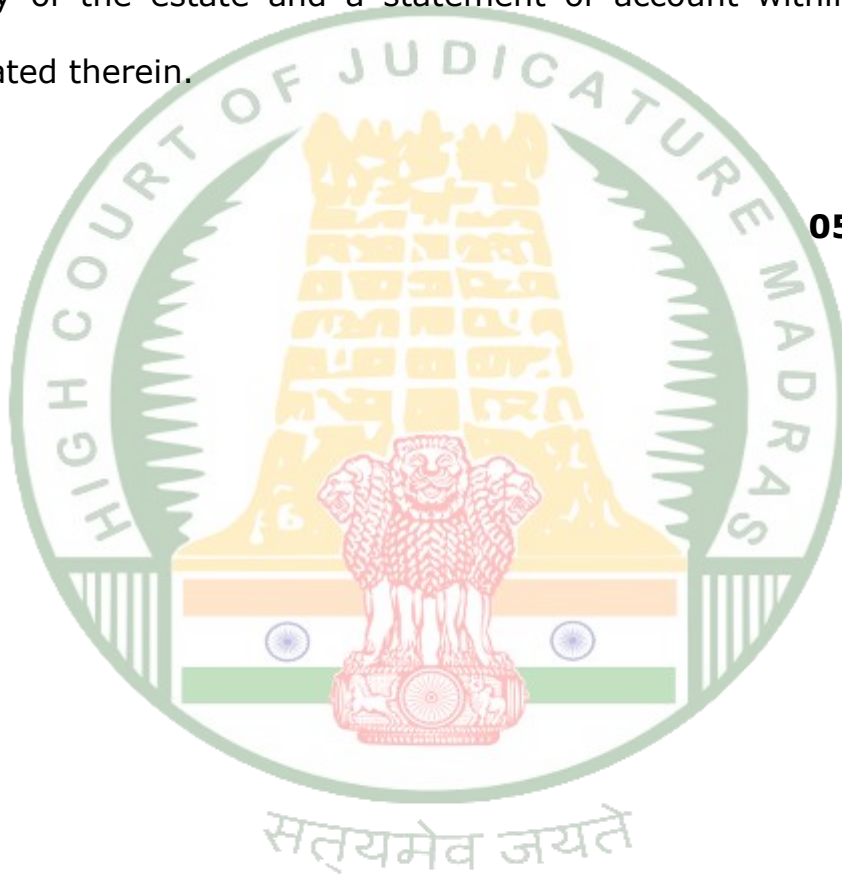
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the petition, the petitioners are directed to provide a true and fair inventory of the estate and a statement of account within the time limits stated therein.

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