

O.P.No.481 of 2019

K.KALYANASUNDARAM, J.,

This Petition has been filed under Sections 222 and 276 of Indian Succession Act, 1925 r/w Order XXV Rule 4 of O.S Rules.

2.In the petition, it is stated that the deceased Mrs.Janaki died on 21.11.2017 at Door No.23, Balaji Nagar, 2nd Street, Royapettah, Chennai-600014 where she ordinarily resided and left the property within the jurisdiction of this Court. The husband of the deceased Mrs.Janaki predeceased her and they have no issues. The parents of the deceased Mrs.Janaki also predeceased her. The petitioner is the elder son of the sister of the deceased testatrix. The first respondent is the Trust formed by the deceased testatrix, the second respondent is the son of brother of the deceased, the respondents 3 and 4 are the grand daughters of the brother of the deceased, the 5th respondent is the son of the sister of the deceased and the respondents 6 and 7 are the grand sons of the sister of the deceased testatrix. The deceased executed the Will and Testament, dated 12.11.2010 registered as Doc.No.100/2010 on the file of the Sub Registrar, Mylapore, Chennai, in the presence of two attesting witnesses, namely, Mr.M.Vaithyanathan and Mr.A.N.Parthasarathy. The petitioner was appointed as the executor of the Will. The deceased/testatrix at the time

of her death left behind no Class I legal heirs and petitioner and the respondents are the Class II legal heirs of the deceased.

3.It is stated that the petitioner impleaded all the next of kin or other persons interested as party / respondent. There is no next kin or other persons interested to be impleaded. The amount of assets which are likely to come into the petitioner's hands does not exceed in the aggregate the sum of Rs.5,00,00,000/- and net amount of the said assets, after deducting all items which the petitioner is by way allowed to deduct is of the value of Rs.5,00,00,000/-. No application has been made at any District court or delegate or to any other High Court for probate of any Will of the said deceased or for Letters of Administration with or without the Will annexed to his property and credits.

4.The petitioner undertakes to duly administer the properties and credits of the deceased and in any way concerning her will by paying first her debts and then the legacies therein bequeathed so far as the assets will extent and to make a full and true inventory thereof and exhibit the same in 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.

5.The petitioner examined himself as P.W.1 and filed proof affidavit and also marked the following documents viz., Exs.P1 to P15.

i) Ex.P1 is the original registered Will and Testament dated 12.11.2010 executed by Mrs.R.Janaki, which has been attested by two attesting witnesses, namely, 1.Mr.M.Vaithiyanathan and 2.Mr.A.N.Parthasarathy. Ex.P1 Will was registered as Doc.No.100 of 2010 on the file of the office of the Sub-Registrar, Mylapore.

ii) Ex.P2 is the computer generated copy of the death certificate of the Testatrix Mrs.R.Janaki, who died on 21.11.2017.

iii) Ex.P3 is the computer generated copy of the death certificate of the Testatrix's husband Mr.L.M.Sundaram, who died on 03.04.1986.

iv) Ex.P4 is the photocopy of the Legal Heirship certificate dated 02.03.2007 in respect of Mr.L.M.Sundaram (Marked after comparing and verifying with the original).

v) Ex.P5 is the photocopy of the property tax demand card along with the copy of the sale deed dated 06.08.1981 in favour of Mr.L.Meenakshi Sundaram (L.M.Sundaram) (Marked after comparing and verifying with the original).

vi) Ex.P6 is the photocopy of the property tax demand card along with the copy of the sale deed dated 23.05.1968 in favour of the Testatrix Mrs.R.Janaki (Marked after comparing and verifying with the original).

vii) Ex.P7 is the photocopy of the property tax demand card along with the copy of the sale deed dated 17.07.2006 in favour of the Testatrix Mrs.R.Janaki (Marked after comparing and verifying with the original).

viii) Ex.P8 is the consent affidavit given by the 1st respondent.

ix) Ex.P9 is the consent affidavit given by the 2nd respondent.

x) Ex.P10 is the consent affidavit given by the 3rd respondent.

xi) Ex.P11 is the consent affidavit given by the 4th respondent.

xii) Ex.P12 is the consent affidavit given by the 5th respondent.

xiii) Ex.P13 is the consent affidavit given by the 6th respondent.

xiv) Ex.P14 is the consent affidavit given by the 7th respondent.

xv) Ex.P15 is the affidavit of assets showing the net value of the estate as Rs.5,00,00,000/-.

He has further stated in his evidence that he has not filed any other petition seeking the same relief.

6.One of the attestors of the Will Mr.M.Vaithyanathan, was examined as P.W.2. In his evidence he has stated that he knew the Testatrix as he used to take her to temples and other religious functions and gatherings as she is elder to him. He had further stated that the testatrix executed her last Will and Testament on 12.11.2010 (Ex.P1) in his presence and in the presence of Mr.A.N.Parthasarathy. At the request of the testatrix P.W.2 subscribed his

signature as the first attesting witness and Mr.A.N.Parthasarathy, attested the Will as the second attesting witness. The testatrix was in sound and disposing state of mind, memory and understanding at the time of execution of Ex.P1 Will. Ex.P16 is the concerned affidavit in that regard.

7.The learned counsel appearing for the respondents would submit that the respondents have no objection for allowing this petition and they have already filed consent affidavit to that effect.

8.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.

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

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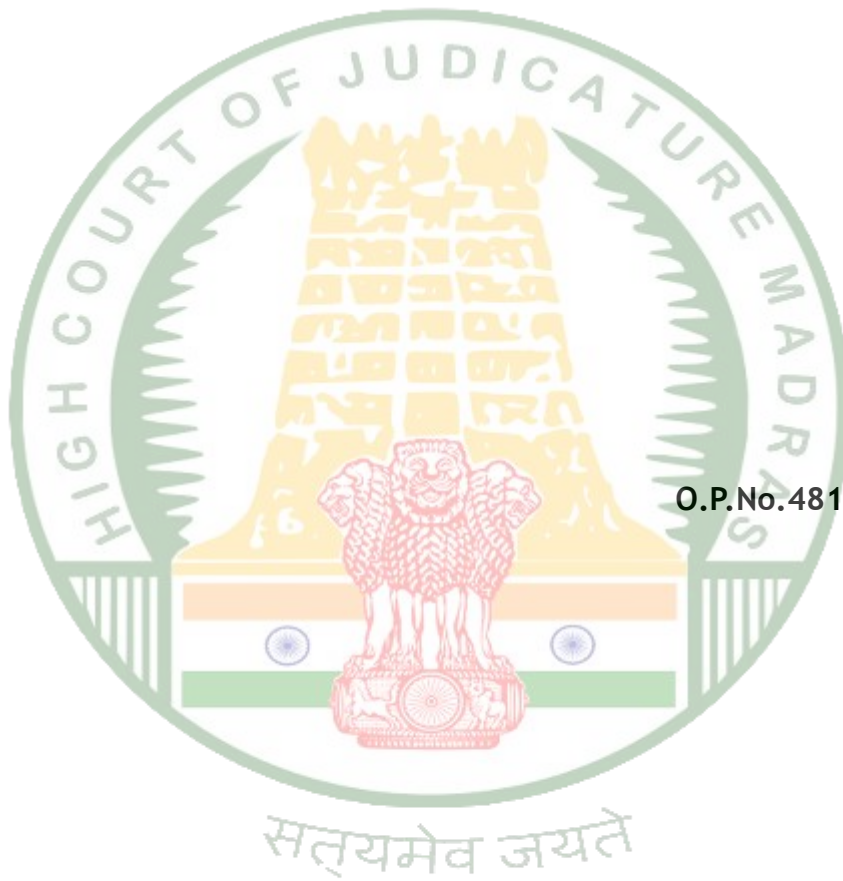
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