

**O.P.No.539 of 2019**

**K.KALYANASUNDARAM, 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 Original Side Rules for Probate of Will.

2. In the petition, it is stated that the deceased Komaleswari Ammal ordinarily resided at No.26, Lakshmi Nagar, Alwarthiru Nagar, Chennai - 600 087 and died on 24.12.1996 at Vijaya Hospital at Chennai. The husband and the parents of the deceased predeceased her. The deceased during her life time purchased a property at Corporation Door No.94, Lake View Road, West Mambalam, Chennai - 600 033, vide a registered Sale Deed dated 31.01.1977 bearing Doc.No.37 of 1977 on the file of the Sub Registrar Office, T.Nagar, Chennai. The deceased executed a Will in the presence of the witnesses and thereby bequeathed her property in favour of the petitioner and also appointed him as an Executor of the Will. The respondents are the Class-II legal heirs of the deceased. The petitioner is the only beneficiary under the Will. The petitioner has impleaded the next kin or other persons interested and there is no next of kin or other persons interested to be impleaded.

3. The respondents have no objection for granting probate in favour of the petitioner and they have filed their consent affidavits to that effect. The amount of assets which are likely to come into the petitioner's hands does not exceed in the aggregate sum of Rs.50,53,140/- and the net amount of the said assets after deducting all items which the petitioner is allowed to deduct is of the value of Rs.50,53,140/-.

5. No application has been made to any District Court or delegate or to any other High Court for the Probate of any Will of the deceased or for grant of Letters of Administration with or without the Will annexed in respect of her property and credits. The petitioner undertakes to duly administer the property and credits of the deceased in any way concerning her Will by paying first her debts and then the legacies therein bequeathed so far as the assets will extend and to make a full and true inventory thereof and exhibit the same in this Court within six months from the date of grant of Probate to the petitioner and also render to this Court a true account of the said property and credits within one year from the said date.

6. The petitioner examined himself as P.W.1 and marked exhibits Exs.P1 to P10;

- a) Ex.P1 is the photocopy of the Sale Deed dated 31.01.1977 in favour of Mrs.Komaleswari Ammal.
- b) Ex.P2 is the original registered Will dated 02.07.1990 executed by Mrs.Komaleswari Ammal, which has been attested by two attesting witnesses namely 1.K.Premkumar and 2.Mrs.Gomathi Vasudevan. Ex.P2 Will was registered as Doc.No.60 of 1990 on the file of the office of the Sub Registrar, T.Nagar.
- c) Ex.P3 is the computer generated copy of the death certificate of Komaleswari Ammal, who died on 24.12.1996.
- d) Ex.P4 is the photocopy of the death certificate of Mrs.P.Sundareswari, who died on 12.06.2007.
- e) Ex.P5 is the affidavit of assets showing the net value of the estate as Rs.50,53,140/-.
- f) Ex.P6 is the consent affidavit given by the 1<sup>st</sup> respondent.
- g) Ex.P7 is the consent affidavit given by the 2<sup>nd</sup> respondent.
- h) Ex.P8 is the consent affidavit given by the 3<sup>rd</sup> respondent.
- i) Ex.P9 is the consent affidavit given by the 4<sup>th</sup> respondent.
- j) Ex.P10 is the consent affidavit given by the 5<sup>th</sup> respondent.

He has further stated that he has not filed any other petition before any other court seeking the same relief.

7. One of the attestors Mrs.Gomathi Vasudevan, examined herself as PW2 and submitted that the testatrix is her maternal aunt. The Testatrix executed her last Will and Testament on 02.07.1990 (Ex.P2) in her presence and in the presence of Mr.K.Premkumar. PW2, subscribed her signature as the second attesting witness along with Mr.K.Premkumar, who attested the Will as the first attesting witness in the presence of Testatrix. The Testatrix was in a sound, disposing state of mind, memory and understanding at the time of execution of the Will. She was also one of the identifying witnesses to the Will. Ex.P11 is her affidavit in that regard.

8. From the averments made in the petition and the deposition of P.W.1 and P.W.2 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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