

O.P.No.164 of 2018

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 Ravindra Maheswari ordinarily resided at Shakti Krishna No.5, 1st Main Road, CIT Colony, Mylapore, Chennai - 600 004 and died on 18.6.2013 at Flat No.61/62, Tower 1, Link Garden Society, Andheri (W), Mumbai - 400 053 and left the movable and immovable properties within the jurisdiction of this Court and also within the State of Maharashtra. The last Will and Testament of the deceased was duly executed by him at Mumbai on 07.03.2013 in the presence of the two witnesses viz., i) Shree Gejendra Maheswari, and ii) Dr.Harinder Kanda. The petitioner was appointed as the Executor in the said Will.

3. It is stated that the respondents are the only class-I legal heirs of the Testator. The parents of the testator predeceased him. The deceased had no other next of kin or relatives and there are no other legal representatives and legatees except the petitioner and the respondents herein.

4. 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.90,32,983/- 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.90,32,983/-.

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 him property and credits. The petitioner undertakes to duly administer the property and credits of the deceased in any way concerning his 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 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 P12;

a) Ex.P1 is the original Will dated 07.03.2013 executed by his father-in-law

Mr.Ravindra Maheswari.

- b) Ex.P2 is the original death certificate of his father-in-law Mr.Ravindra Maheswari, who died on 18.6.2013.
- c) Ex.P3 is the original legal heirship certificate dated 06.12.2013 in respect of his father-in-law Mr.Ravindra Maheswari.
- d) Ex.P4 is the original certificate dated 02.09.2017 issued by Oriental Bank of Commerce, Adyar Branch in respect of balance amount held by his father-in-law Mr.Ravindra Maheswari in savings bank account bearing No.10632191000032 in their bank.
- e) Ex.P5 is the online statement of holdings in respect of demat account held by his deceased father-in-law Mr.Ravindra Maheswari in client ID No.50009440 as on 04.09.2017.
- f) Ex.P6 is the photocopy of list of physical shares (Non-Demat) held by his father-in-law Mr.Ravindra Maheswari.
- g) Ex.P7 is the photocopy of Debenture certificate bearing certificate No.50436659 held by his father-in-law Mr.Ravindra Maheswari in Sriram Transport Finance Company Limited.
- h) Ex.P8 is the consent affidavit given by the 1st respondent herein stating that she has no objection in grant of probate in his favour.
- i) Ex.P9 is the consent affidavit given by the 2nd respondent herein stating that he has no objection in grant of probate in his favour.
- j) Ex.P10 is the consent affidavit given by the 3rd respondent herein stating that he has no objection in grant of probate in his favour.
- k) Ex.P11 is the consent affidavit given by the 4th respondent herein stating that she has no objection in grant of probate in his favour.
- l) Ex.P12 is the affidavit of assets showing the net value of the estate as

Rs.90,32,983/-.

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

7. One Dr.Harinder Kanda, examined himself as PW2 and submitted that the testator is the father of his close friend Upendra Maheshwari. The Testator executed his last Will and Testament on 07.03.2013 (Ex.P1) in his presence and in the presence of Shree Gajendra Maheshwari. PW2, subscribed his signature as the second attesting witness along with Shree Gajendra Maheshwari, who attested the Will as the first attesting witness in the presence of Testator. The Testator was in a sound, disposing state of mind, memory and understanding at the time of execution of the Will, Ex.P1. Ex.P13 is his 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.

26.11.2019

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