

O.P.No.477 of 2019

K.KALYANASUNDARAM, J.

This Petition has been filed under Sections 222 and 276 of Indian Succession Act, 39 of 1925 r/w Order XXV Rule 4 of O.S Rules.

2.In the petition, it is stated that the deceased C.Jayaraman died on 09.11.2007 at St.Isabel Hospital, Mylapore, Chennai - 600 004 and was ordinarily resided at No.43, Old No.16/2, Pudupet Garden Street, Royapettah, Chennai - 600 014 and left the property within the jurisdiction of this Court. The petitioner is the son and the first respondent is the wife of late K.Munirathinam Reddy. The second respondent is the widow of late K.M.Sadasiva Reddy, who is the deceased brother of the petitioner and the respondents 3 and 4 are the sons of the said late K.M.Sadasiva Reddy. The said K.M.Sadasiva Reddy, namely, the brother of the petitioner, who is one of the beneficiary of the Will died on 07.08.2018. The deceased C.Jayaraman is the brother of the said late K.Munirathinam Reddy. The deceased C.Jayaraman executed the Will and Testament, dated 29.08.1994 registered as Document No.63/1994 at the District Registrar Madras Central in the presence of two attesting witnesses, namely, Mr.R.Rajamanickam and Mr.E.Suresh and the petitioner was appointed as the executor of the Will.

The deceased C.Jayaraman, namely, the testator has not married and his parents predeceased him. The deceased at the time of her death left behind the petitioner and the respondents as his surviving legal heirs or next of kin.

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.35,00,000/- 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.35,00,000/-. 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 his will by paying first his 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 P11.

i) Ex.P1 is the original Will dated 29.08.1994 executed by Mr.C.Jayaraman, registered as Doc.No.63 of 1994 on the file of the office of the District Registrar, Madras Central, which has been attested by two attesting witnesses, namely, 1.Mr.R.Rajamanickam and 2.Mr.E.Suresh.

ii) Ex.P2 is the computer generated death certificate of Mr.C.Jayaraman, who died on 09.11.2007.

iii) Ex.P3 is the photocopy of the death certificate of my father K.Munirathinam Reddy, who died on 03.08.2015.

iv) Ex.P4 is the computer generated death certificate of Mr.K.M.Sadasiva Reddy, who died on 07.08.2018.

v) Ex.P5 is the computer generated Legal Heirship Certificate dated 24.09.2018 in respect of Mr.K.M.Sadasiva Reddy.

vi) Ex.P6 is the photocopy of the certified copy of the Sale Deed dated 25.08.1973.

vii) Ex.P7 is the affidavit of assets showing the net value of the estate as Rs.35,00,000/-.

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.

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.E.Suresh was examined as P.W.2. In his evidence he has stated that the testator was his grandfather. He had further stated that the testator executed her last Will on 29.08.1994 (Ex.P1) in his presence and in the presence of Mr.R.Rajamanickam. At the request of the testator P.W.2 subscribed his signature as the second attesting witness and Mr.R.Rajamanickam, attested the Will as the first attesting witness. The testator was in sound and disposing state of mind, memory and understanding at the time of execution of Ex.P1 Will. Ex.P12 is the concerned affidavit, in that regard.

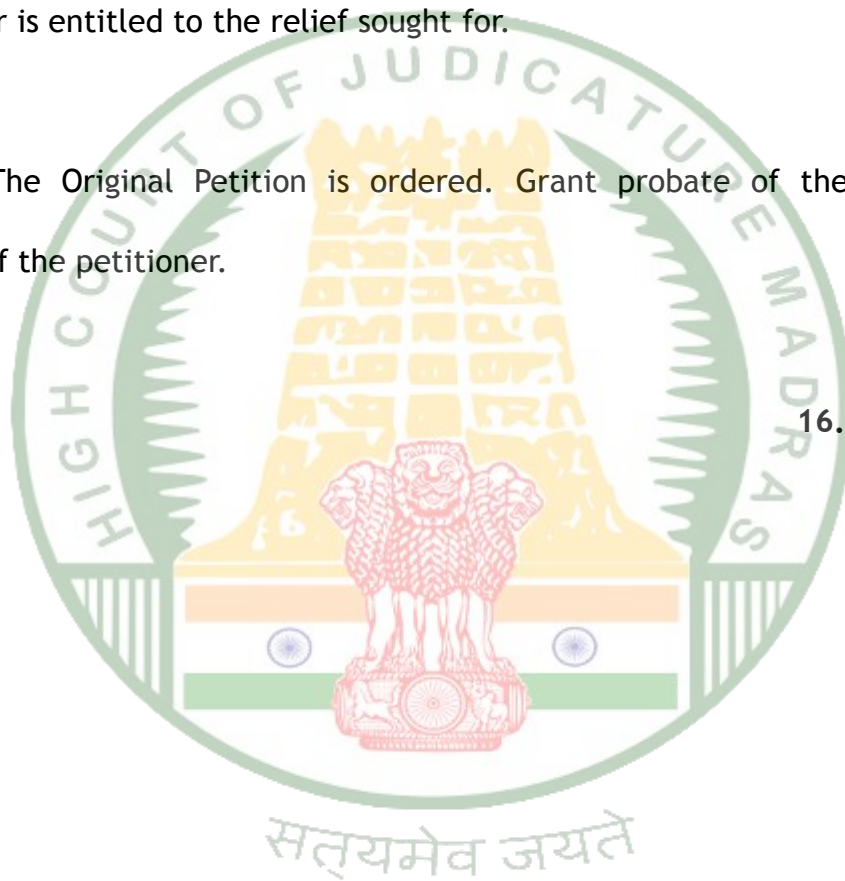
7.The learned counsel appearing for the respondents would submit that the respondents have no objection for allowing this petition and they have already filed consent affidavit to that effect.

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.

16.10.2019

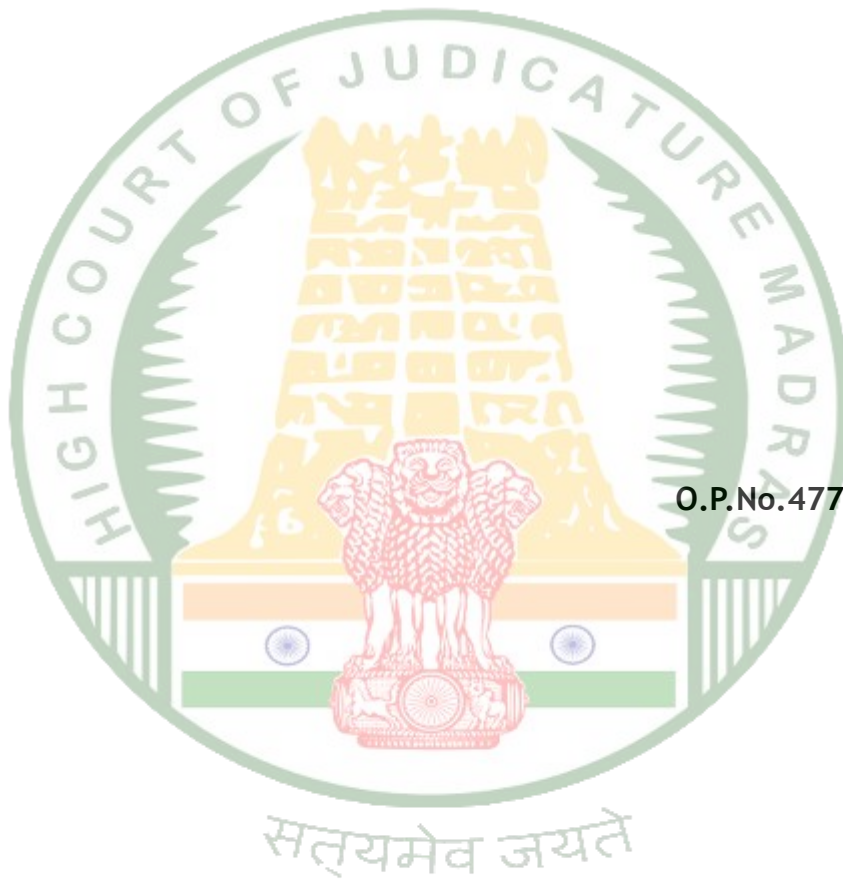
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K.KALYANASUNDARAM, J.

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