

O.P.No.793 of 2018

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 S.Ganapathy died on 27.05.2018 at A.K.N.Nursing Homes, No.20, Kellys Road, Kilpauk, Chennai-600010 and he ordinarily resided at Plot Nos.13 & 14, Venus Nagar, 1st Main Road, Kolathur, Chennai-600099 and left the property within the jurisdiction of this Court. The wife of the deceased predeceased him and they have no issues. The deceased executed the Will and Testament, dated 28.01.2018, in the presence of two attesting witnesses. The petitioner was appointed as the executor of the Will. The deceased/testator at the time of his death left behind no Class I legal heirs and the first respondent is the only surviving sister and Class II legal heir of the deceased and the respondents 3 to 6 are the sons and daughters of the deceased sister S.Bhagavathy and they are the other Class II legal heirs.

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.1,20,42,636,80/- 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.1,20,42,636,80/-. As per the Will of the deceased, he had bequeathed his self-acquired immovable property as detailed in the Will to the respondents 1 and 2 equally and with regard to the balance in the Testator's bank and Post Office account, he had directed the respondents 1 and 2 to share it equally. 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 P14.

i) Ex.P1 is the original Will dated 28.01.2018 executed by S.Ganapathy which has been attested by two attesting witnesses, namely, 1.Mr.T.V.Vedamurthy and 2.Mr.K.Narayanan.

ii) Ex.P2 is the computer generated death certificate of A.S.Nagambal, who died on 16.01.2018.

iii) Ex.P3 is the photocopy of the Legal Heirship certificate dated 09.03.2018 in respect of the aforesaid A.S.Nagambal.

iv) Ex.P4 is the computer generated death certificate of S.Ganapathy, who died on 27.05.2018.

v) Ex.P5 is the photocopy of the death certificate of S.Parvathy Ammal, who died on 13.08.1994.

vi) Ex.P6 is the photocopy of the Bank passbook for the account in No.10273476369, maintained by S.Ganapathy with State Bank of India Park Town Branch (Marked after comparing and verifying with the original).

vii) Ex.P7 is the photocopy of the Post Office passbook for the account in No.20918127, maintained by S.Ganapathy with Aynavaram Post Office (Marked after comparing and verifying with the original).

viii) Ex.P8 is the affidavit of assets showing the net value of the estate as Rs.1,20,42,636.80/-.

ix) Ex.P9 is the consent affidavit given by the 1st respondent.

- x) Ex.P10 is the consent affidavit given by the 2nd respondent.
- xi) Ex.P11 is the consent affidavit given by the 3rd respondent.
- xii) Ex.P12 is the consent affidavit given by the 4th respondent.
- xiii) Ex.P13 is the consent affidavit given by the 5th respondent.
- xiv) Ex.P14 is the consent affidavit given by the 6th 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.T.V.Vedamurthy, was examined as P.W.2. In his evidence he has stated that the testator is his distant relative and he executed his last Will on 28.01.2018 (Ex.P1) in his presence and in the presence of Mr.K.Narayanan. At the request of the testator P.W.2 subscribed his signature as the first attesting witness and Mr.K.Narayanan, attested the Will as the second 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.P15 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.

22.10.2019

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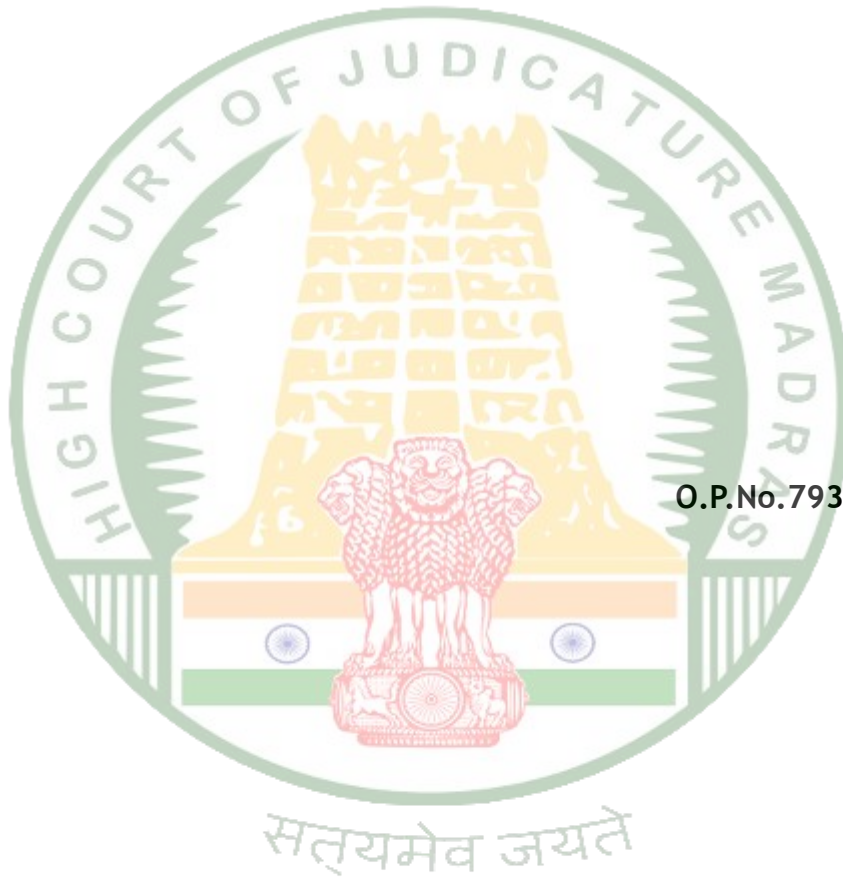


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