

O.P.No.830 of 2019

K.KALYANASUNDARAM, J.,

This Petition has been filed under Sections 222(1) 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 Mr.P.B.Visweswara Rao died on 30.04.2005 at Apollo Hospitals, Greams Lane, Chennai - 600 006 and left the property within the jurisdiction of this Court. The petitioner is the younger son of the deceased testator. The first respondent is the wife of the deceased testator, the second respondent is the elder son of the deceased, the respondents 3 and 4 are the daughters of the deceased testator. The deceased executed the Will and Testament, dated 10.12.2004 registered as Doc.No.72 of 2004 on the file of the Chennai Central Joint I in the presence of two attesting witnesses, namely, Mr.G.Venugopal and Mr.T.Ravikumar. The petitioner was appointed as the executor of the Will. The deceased/testatrix at the time of his death left behind the petitioner and the respondents as his only surviving 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.4,54,20,831/- 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.4,54,20,831/-. 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 P13.

i) Ex.P1 is the computer generated death certificate of my fater Mr.P.B.Visweswara Rao, who died on 30.04.2005.

ii) Ex.P2 is the photocopy of the Legal Heirship Certificate dated 06.12.2005 in respect of my deceased father Mr.P.B.Visweswara Rao (Marked

after comparing and verifying with the original)

iii) Ex.P3 is the original last Will and Testament dated 10.12.2004 executed by my father Mr.P.B.Visweswara Roa, registered as Doc.No.72 of 2004 at District Registrar, Central Chennai.

iv) Ex.P4 (series) are the photocopy of fixed deposit receipt in Sundaram Finance Limited dated 08.12.2004 bearing account No.L756569 along with two post office fixed deposit bearing account No.59254 and 59319 at Gopalapuram Post Office jointly held by me and my father Mr.P.B.Visweswara Rao.

v) Ex.P5 is the online patta dated 09.09.2019 in respect of the schedule B property which stands in the name of Late Mr.P.K.Bhujanga Rao.

vi) Ex.P6 is the photocopy of certified copy of Release Deed executed by Thara Bai and Radha Rani registered as Doc.No.516 of 1983 in the office of Sub-Registrar, Thousand Lights (Marked after comparing and verifying with the original).

vii) Ex.P7 is the photocopy of certified copy of Release Deed dated 22.06.1984 executed by P.M.Meera @ Smt. Pingaley Mallikkarjuna Rao Meera registered as Doc.No.922 of 1984 in the office of Sub-Registrar Joint I Sub-Registrar, Central Madras (Marked after comparing and verifying with the original).

viii) Ex.P8 is the online Encumbrance Certificate dated 16.09.2019 for

the period from 15.07.1983 to 24.04.2019 in respect of the B schedule property.

ix) Ex.P9 is the affidavit of assets showing the net value of the estate as Rs.4,54,20,831/-.

x) Ex.P10 is the consent affidavit given by the 1st respondent stating that she has no objection in grant of probate in my favour.

xi) Ex.P11 is the consent affidavit given by the 2nd respondent stating that he has no objection in grant of probate in my favour.

xii) Ex.P12 is the consent affidavit given by the 3rd respondent stating that she has no objection in grant of probate in my favour. .

xiii) Ex.P13 is the consent affidavit given by the 4th respondent stating that she has no objection in grant of probate in my favour.

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.Ravi kumar, was examined as P.W.2. In his evidence he has stated that he knew the Testator. He had further stated that the testator executed his last Will and Testament on 10.12.2004 (Ex.P3) in his presence and in the presence of Mr.G.Venugopal. At the request of the testator P.W.2 subscribed his signature as the second attesting witness and Mr.G.Venugopal, 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.P3 Will. Ex.P14 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.

सत्यमेव जयते

WEB COPY

07.11.2019

mp

NOTE: Issue order copy by 15.11.2019

O.P.No.830 of 2019

K.KALYANASUNDARAM, J.

mp



O.P.No.830 of 2019

WEB COPY

07.11.2019