

O.P.No.1095 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 XXXV Rule 4 of Original Side Rules for Probate of Will.

2. In the petition, it is stated that the deceased Sarah Oommen, ordinarily resided at 3/6, Rajagopalan Street, Valmikki Nagar, Thiruvananthapuram, Chennai-41 and died on 22.08.1999 and left the properties specified in the Schedule within the jurisdiction of this Court. The last Will and Testament of the deceased was duly executed by her at Chennai in the presence of the witnesses on 15.04.1998. The petitioner was appointed as the Executor in the said Will.

3. It is stated that the respondents 1 to 3 alone are the beneficiary under the said will and the testator appointed Cheryl Thomas, the petitioner herein as the executor to the said Will.

4. It is further stated that the deceased possessed both movable and immovable properties. The respondents are all aware of the existence and contents of the Will and have in fact abided by the same, thereby keeping alive

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the spirit and desire of the deceased. The respondents shared most the of the properties as provided for under the Will.

5. The deceased Testatrix left the Will and Testament bequeathing her properties in favour of the parties herein. The amount of assets which are likely to come into the petitioner's hands does not exceed in the aggregate sum of Rs.85,82,559/- 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.85,82,559/-. As per the Will, the schedule property will be enjoyed by the respondents 1 and 2 absolutely.

6. 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.

7. The petitioner examined himself as P.W.1 and marked exhibits Exs.P1 to P5:-

- a) Ex.P1 is the computer generated death certificate of her mother's aunt Sara Oommen, who died on 22.08.1999.
- b) Ex.P2 is the original last Will and Testament executed by her mother's aunt Sarah Oommen on 15.04.1998 registered as Doc.No.46 of 1998 at SRO, Purasawalkam.
- c) Ex.P3 is the photocopy of the Legal Heirship certificate dated 17.02.2012 in respect of Sara Oommen.
- d) Ex.P4 is the computer generated death certificate of Kaniantharaithomas Oomen (Husband of Sara Oommen), who died on 27.02.1997.
- e) Ex.P5 is the affidavit of assets showing the net value of the estate as Rs.85,82,559/-.

8. One Mr.Mathen Jacob Anand, examined himself as PW-2 and submitted that the signature shown to me in the Will (Ex.P2) is that of his father T.O.Jacob, who subscribed his signature as the first attesting witness. His mother has also subscribed her signature as an identifying witness before the Sub-Registrar's Office, Purasawalkam. Ex.P8 is his affidavit in that regard.

9. The respondents have no serious objection for granting probate in favour of the petitioner herein.

10. 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 her claim and there is no contra evidence. Hence, I am satisfied that the petitioner is entitled to the relief sought for.

11. The Original Petition is ordered. Grant probate of the Will in respect of the petitioner.

06.11.2019

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K.KALYANASUNDARAM, J.
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