

O.P.No.853 of 2018

K.KALYANASUNDARAM, J.,

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

2.In the petition, it is stated that the deceased N.Sundaresan ordinarily resided at No.30/4, Temple Avenue, Sri Nagar Colony, Saidapet, Chennai - 600 015 and died on 30.06.2011 and left the properties within the jurisdiction of this Court. The petitioner is the son, the first respondent is the wife and the respondents 2 and 3 are the daughters of the deceased N.Sundaresan. The deceased executed the Will and Testament, dated 09.05.2007, in the presence of two attesting witnesses. The deceased bequeathed the property in favour of his son S.Venkatanarasimhan, the petitioner herein, wife Gomathy, the first respondent herein and two daughters Saradha and Lakshmi Pasam, the respondents 2 and 3. The petitioner, who is the son of the testator and also one of the beneficiaries of the Will, was appointed as the executor of the Will. The deceased at the time of his death left behind his wife viz., Gomathy, daughters viz., Saradha and Lakshmi Pasam and a son viz., S.Venkatanarasimhan, as his surviving legal heirs or next of kin. As per the Will executed by the deceased, the petitioner and the respondents are

entitled to share the properties in the following ratio:

1.Smt.Gomathy/first respondent	- 15%
2.Sr.Venkatanarasimhan/petitioner	- 55%
3.Smt.Sarada/second respondent	- 15%
4.Lakshmi/third respondent	- 15%

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.1,50,00,000/- 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.1,50,00,000/-. 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 P8.

i) Ex.P1 is the photocopy of the Sale Deed dated 17.03.1958 registered as Doc.No.1509 of 1958 at SRO, Saidapet in favour of my father N.Sundaresan.

ii) Ex.P2 is the original last Will and Testament dated 09.05.2007 executed by my father N.Sundaresan

iii) Ex.P3 is the computer generated death certificate of my father N.Sundaresan, who died on 30.06.2011.

iv) Ex.P4 is the original Legal Heriship certificate dated 06.02.2018 in respect of my deceased father N.Sundaresan.

v) Ex.P5 is the affidavit of assets showing the net value of the estate as Rs.1,50,00,000/-.

vi) Ex.P6 is the consent affidavit given by the 1st respondent stating that she has no objection in grant of Probate in my favour.

vii) Ex.P7 is the consent affidavit given by the 2nd respondent stating that she has no objection in grant of Probate in my favour.

viii) Ex.P8 is the consent affidavit given by the 3rd 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 S.V.Balasubramanian, was examined as P.W.2. In his evidence he has stated that the testator is his family friend for the past several years and he executed his last Will on 09.05.2007 (Ex.P2) in his presence and in the presence of M.Srinivasan. At the request of the testator P.W.2 subscribed his signature as the second attesting witness and M.Srinivasan, 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.P2 Will.

7. The other attesor of the Will M.Srinivasan, was examined as P.W.3. In his evidence he has stated that the testator is his family friend and he executed his last Will on 09.05.2007 (Ex.P2) in his presence and in the presence of S.V.Balasubramanian. At the request of the testator P.W.2 subscribed his signature as the first attesting witness and S.V.Balasubramanian, 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.P2 Will.

8.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.

9.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.

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

17.09.2019

cse

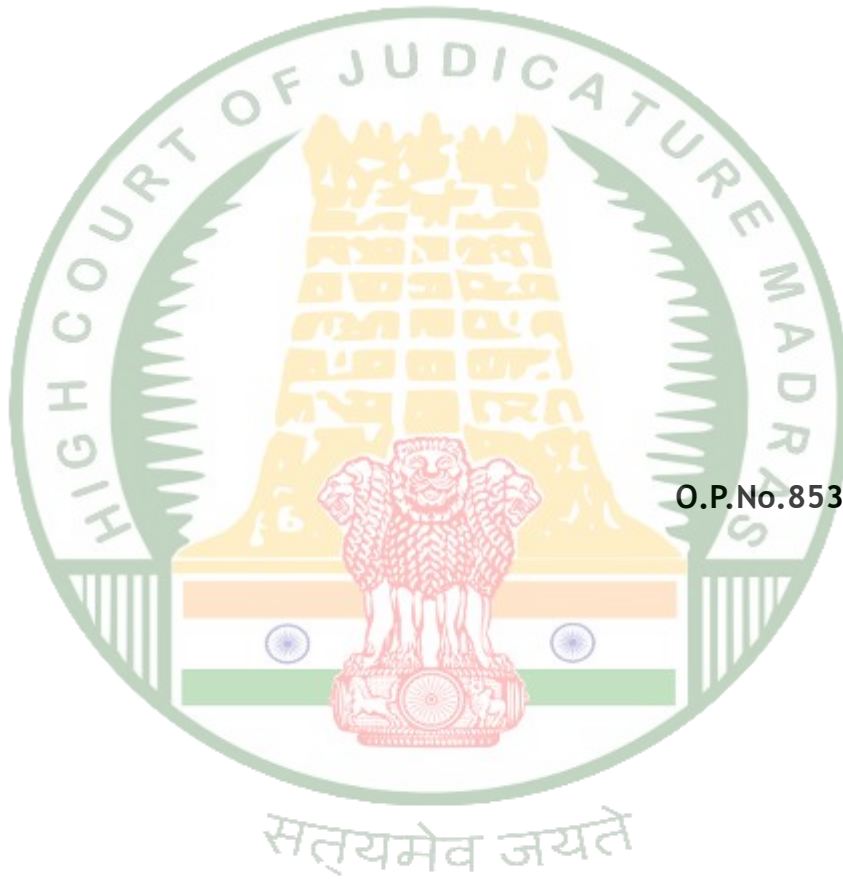
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