

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(TESTAMENTARY AND INTESTATE JURISDICTION)

FRIDAY, THE 11TH DAY OF DECEMBER 2020

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

O.P.No.171 of 2020

In the matter of the
Indian Succession Act
XXXIX of 1925
and

In the matter of the Last Will and
Testament of Mr.G.Sethuram
(Deceased)

K.MEENAKSHISUNDARAM
EXECUTOR, NO.6/14,
POONTHOTTAM, 1ST STREET,
NANGANALLUR,
CHENNAI-600 114

1. MEERA
W/O.Mr.SOMANATHAN,
NO.3, PLOT NO.28,
THIRUKUMARAN NAGAR,
MADURAVOYAL, CHENNAI-600 095

2. MAYA
D/O.LATE Mr.G.SETHURAM,
NO.AC-57/8, GROUND FLOOR,
V AVENUE, ANNA NAGAR,
CHENNAI-600 040

3. RAMAA GUPTA
W/O.V.SURESH GUPTA,
RESIDING AT

NO.46, WINDSOR AVENUE,
MAGILL, SA-5072,
AUSTRALIA.

..Respondents

Original Petition praying that this Hon'ble Court be pleased that he may be allowed to prove the Will dated 29th March 2010, executed by Mr.G.Sethuram, in common form and that probate thereof to have effect limited to the State of Tamilnadu, may be granted to the petitioner.

This Original Petition coming on this day before this court for hearing the court made the following order:

This petition has been filed under Sections 222 and 276 of the Indian Succession Act, 1925 read with Order XXV, Rule 4 of O.S. Rules, for the grant of Probate in respect of the last Will and Testament of the deceased G.Sethuram.

2. The case of the petitioner is that the petitioner is the Executor of the Will executed by the deceased G.Sethuram and the respondents 1 to 3 are the daughters of the deceased and they are the only Class I legal heirs of the deceased G.Sethuram. The wife of the testator predeceased him and died on 10.05.2013. The said G.Sethuram died on 14.03.2014. The parents of the deceased pre deceased him. The petitioner has impleaded all the next kith or kin or other persons as respondents. There is no other next kith or kin or other persons to be impleaded. The deceased executed his last Will and Testament dated 29.03.2010. The deceased had appointed the petitioner

as the Executor in the said Will. The amount of assets which is likely to come into the petitioner's hands does not exceed in the aggregate sum of Rs.72,00,000/- and the net amount of the assets, after deducting all items which the petitioner is by law allowed to deduct is of the value of Rs.72,00,000/-. The petitioner undertakes to duly administer the property and credits of the deceased G.Sethuram and in any way concerning the Will by paying first his debts and then the legacies therein bequeathed so far as the assets will extend and to make a full and true inventory thereof to 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.

3. The petitioner examined himself as P.W.1 and he had narrated the averments made in the petition stating that the petitioner have filed this petition for the grant of probate in his favour in respect of the Last Will and Testament executed by the testator on 29.03.2010. Ex.P.1 is the original last Will and Testament executed by the deceased Mr.G.Sethuram on 29.03.2010. Ex.P.2 is the certified copy of the sale deed dated 30.03.1990 in favour of G.Sethuram. Ex.P.4 is the computer generated copy of the death certificate of the deceased. Ex.P.6 is the original Legal Heirship certificate dated 04.05.2015 in respect of the deceased. Ex.P.7 is the

affidavit of the assets showing the net value of the estate as Rs.72,00,000/-.

4.One of the attestors of the Will dated 29.03.2010 viz., M.Dwaraknath was examined as P.W.2. In his evidence, P.W.2 has stated that the testator executed his last Will and Testament on 29.03.2010 in his presence and in the presence of one Mr.P.G.Ramalingam. At the request of the testator, P.W.2 subscribed his signature as first attesting witness along with Mr.P.G.Ramalingam, who attested the Will as the second attesting witness in the presence of the testator. While executing the Will, the testator was in a sound and disposing state of mind and in his presence, the attesting witnesses subscribed their signature in the Will. Ex.P8 is the affidavit filed by P.W.2 in this regard. The evidence of P.W.2 not only prove execution but also attestation of the Will and there is no other materials to suspect the Will.

5.One Ms.Maya was examined as R.W.1 and she has filed her proof affidavit stating the facts of this case and the same may be treated as part and parcel of her examination-in-chief. In continuation of her proof affidavit, she has filed her consent affidavit Ex.R.1 stating that she has no objection in grant of probate as prayed by the petitioner in this petition.

Ex.R2 is the consent affidavit given by the 3rd respondent stating that she

has no objection in grant of probate as prayed by the petitioner in this petition.

6. In view of the above facts, I am of the view that the petitioner has proved the execution and attestation of the Will. Hence, the petitioner is entitled for the issuance of probate in favour of the petitioner.

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

Sd/.N.S.K.J.
11.12.2020

//Certified to be a true copy//

Dated this the th day of 2020.

SU/28.12.2020

COURT OFFICER(O.S.)

From 25.09.2008 th e Registry is issuing certified copies of the Order/Judgment Decree in this format.