

IN THE HIGH COURT OF JUDICATURE AT MADRAS**Dated : 08.07.2020****CORAM****THE HONOURABLE Ms. JUSTICE P.T. ASHA**

Chitra Sankar

... petitioner

versus

V.Ramesh

... Respondent

Prayer ::- Petition filed to prove the will dated 31 October 2017 executed by R.Kavitha in common form and for Probate of the will dated 31 October 2017 executed by the said Kavitha in favour of the petitioner to have effect throughout the whole of Union of India.

For Petitioner : Mr. Suryanarayanan
for Mr. S. Raghavan

For Respondent : K. Harikrishnan

सत्यमेव जयते

ORDER

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The above petition is filed for grant of probate of will dated 31.10.2017 executed by the deceased testator R.Kavitha to have effect throughout the Union of India.

2.The brief facts which have been detailed in the Petition

are as follows:

The petitioner is the executrix named in the last will and testament of the deceased R.Kavitha. The respondent is the husband of the deceased R. Kavitha and the petitioner herein is the elder sister of the testatrix. The respondent and the said testatrix have twin minor sons Ramkumar and Ramsaran, both born on 27.11.2009.

3.The said Kavitha was suffering from Ovarian Cancer and she has passed away on 23.11.2017. The petitioner would further state that the deceased testatrix had been residing at her parental house and she had died leaving behind her surviving her husband the respondent and her two sons. The testatrix was employed as a Selection Grade Assistant Section Officer of this Court. Prior to her death, the said Kavitha had executed a will dated 31.10.2017 bequeathing all her terminal benefits in favour of her minor children and the petitioner was appointed as Executrix and the guardian of her two minor children till they attain the age of majority. The testatrix had consciously not named her husband as the Executor, since he was prone to

excessive spending.

4. The petitioner would submit that she had come to know about this will only on 23.03.2019 when she had accidentally stumbled upon the will while cleaning her mother's almirah. It was only then that she came to know that the testatrix had executed the will. It is also seen that the testatrix had addressed a letter to the Registrar General of this Court seeking to change the nomination in her SR Book in favour of her minor sons in the place of her husband, the respondent herein. The said request has also been given effect to by the Registrar General of this Court and the nomination has been changed in the name of the minor sons. It is this backdrop that the petitioner has come forward with the instant Petition.

5. The petitioner had examined herself as PW1 and had marked Ex.P1, the death certificate of R.Kavitha. Ex.P2 the original will executed by the said Kavitha and Exs. P3 and P4 are the letters written to Registrar General of this Court for settlement of terminal benefits. Ex. P5 is the affidavit filed by

the respondent stating that he will not make any claim in the terminal benefits of his wife. Exs. P6 and P7 are marked as letters written by the High Court to the petitioner demanding documents, as required by the Accountant General. The letter addressed by the deceased testatrix to the Registrar General of the High Court, Madras has been marked as Ex.P8, and the legal heirship certificate has been marked as EX.P9. The affidavit of assets has been marked as EX.P 10 and the Affidavit of the Attestor of the Will has been marked as Ex.P11.

6. Apart from the petitioner, Mrs. Uma who is the Attestor of the last will and testament of R.Kavitha (EX.P2) has adduced evidence as PW2 to the effect that the testatrix in her sound disposing mind had executed the will and that herself and one G.Sundar were the attesting witnesses to the said Will.

7. On a perusal of the evidence, both oral and documentary, particularly the evidence of PW2 it is clear that the testatrix had executed EX.P2. PW2 had adduced evidence both with reference to the execution of the will as well as with reference to the sound

and disposing state of mind of the testatrix at the time of execution of the Will. Therefore the petitioner has proved the execution of EX.P2 Will by the deceased testatrix.

8. Considering the above, the Original Petition seeking grant of probate is ordered, as prayed for.

08.07.2020

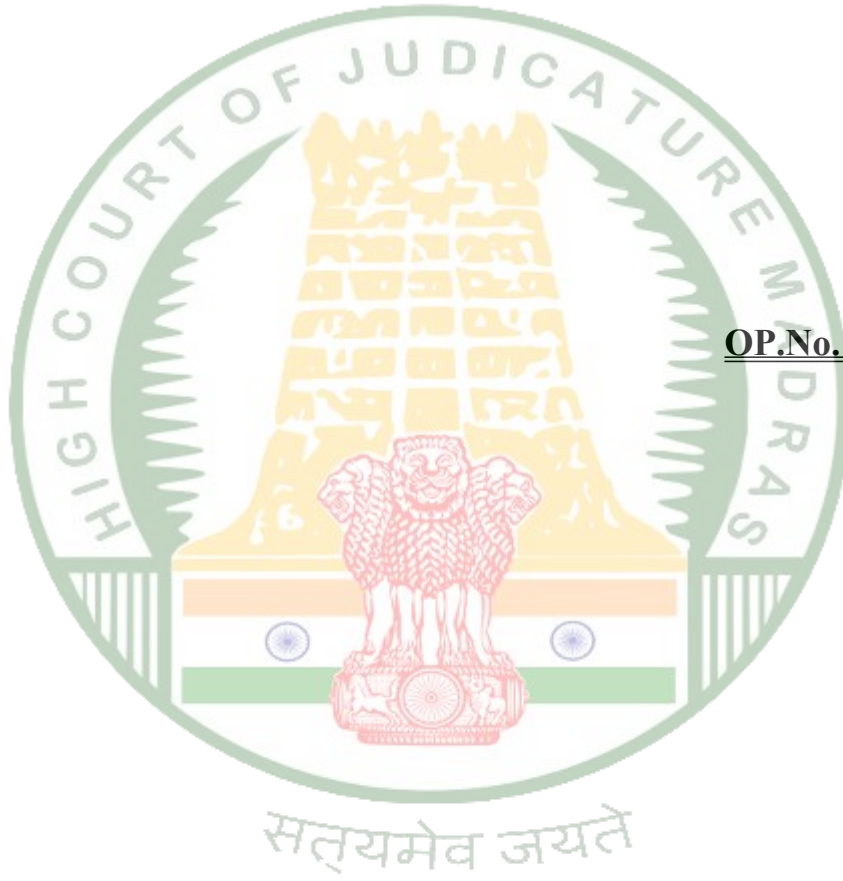
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P.T. ASHA. J,

mrn

**OP.No. 25 of 2020****WEB COPY** **08.07.2020**