

O.P.No.291 of 2012

SENTHILKUMAR RAMAMOORTHY, J.

This petition has been filed for grant of probate in respect of the last Will and Testament dated 16.09.1998 of Mrs.N.R.Kutchala Bai in favour of the petitioner, who is the Executor of the Will.

2. I heard the learned counsel for the petitioner. The names of the respondents are printed in the cause list, but there is no appearance for any of the respondents.

3. The learned counsel for the petitioner submitted that the testatrix N.R.Kutchalabai, ordinarily resided at No.22, Venkatesa Maistry Street, Kondithope, Chennai-79. She further submitted that the husband of the testatrix predeceased her on 16.09.1996 and the couple did not have children. She further submitted that the petitioner is the sole executor of the Will and that therefore, the petition has been filed for Probate of the Will in terms of which the beneficiaries are persons to whom payments are required to be made as per the Will

and that the balance is intended for the performance of specific religious festivals by the Trust.

4. She further submitted that evidence was adduced in order to prove the Will and that the petitioner was examined as P.W.1. During the course of the evidence of P.W.1, 12 documents were exhibited. She also submitted that one of the attesting witnesses, namely Mr.L.Chinnikrishnan, was examined as P.W.2 and that P.W.2 testified that the Will was executed in his presence and in the presence of Mr.P.Karunakaran, namely the other attesting witness. She also submitted that Mr.L.Chinnikrishnan deposed that the testatrix was in a sound disposing state of mind, at the time of execution of the Will. Based on the foregoing, the learned counsel for the petitioner submitted that the Will was duly proved in accordance with law.

5. I considered the submissions of the learned counsel and examined the evidence recorded in the case. From the foregoing, the following is evidenced:

- (i) The Testatrix died on 09.10.2007 as evidenced by Ex.P.4.
- (ii) The Testatrix executed a registered Will as evidenced by

Ex.P2.

(ii) Consent affidavits were given by the respondents 1 to 7 and the 9th respondent as evidenced by Ex.P4 to Ex.P11.

(iv) One of the attesting witnesses, namely Mr.L.Chinnikrishnan was examined as P.W.2 and he has deposed that the Will was executed in his presence and also in the presence of the other attesting witness.

(iv) Paper publication was also effected both in an English daily and Tamil daily.

6. It is stated in the petition that no previous application was made to any District Court or delegate or to any High Court for probate of any Will of the deceased or for Letters of Administration with or without the Will annexed.

7. Therefore, the petitioner has made out a case for the grant of Probate by proving the Will.

8. Hence, this petition is allowed and it is directed that Probate be granted to the petitioner in respect of the Will dated 16.09.1998 of

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the late Mrs.N.R.Kutchala Bai to have effect limited to the state of Tamil Nadu. The Petitioner is directed to execute a bond for a sum of Rs.25,000/- in the name of the Assistant Registrar (Original Side). The petitioner shall also provide the true and fair inventory of the property and credits and also a true account within a period of six months and one year, respectively, from the date of grant of probate.

13.01.2020

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