

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2020

CORAM:

THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

O.P. No. 905 of 2015

S.Manivannan

... Petitioner

VS

1. V.Shanmugavelu

2. G.Yethindran

... Respondents

Prayer: Original Petition filed under Sections 222 and 276 of the Indian Succession Act 1925 under Order XXV Rule 4 of OS Rules, to prove the Will in common form and that probate thereof, to have effect limited to the state of Tamil Nadu, may be granted to the petitioner in respect of the property described in the schedule.

For Petitioner : Mr.V.Anilkumar

J U D G M E N T

सत्यमेव जयते

This petition is filed for the grant of probate in respect of the last Will and Testament of S.Parimalam @ S.Lakshmi.

2. I heard the learned counsel for the petitioner.

3. Both the respondents submitted consent affidavits.

4. The learned counsel for the petitioner submitted that the petitioner is the executor of the last Will and Testament of Mrs.S.Parimala, which was executed on 23.01.2013.

5. The said Testatrix died on 01.03.2014. She ordinarily resided at No.27/21, Thiruvengadam Street, Flat No.B5, Sri Sakthi Sai Flats, Perambur, Chennai-11, which is within the jurisdiction of this Court. The Will was registered before the Sub Registrar Officer, Saidapet, Chennai on 23.01.2013. He further submitted that the testatrix and her husband, who is the first respondent herein did not have children. Accordingly, the assets of the Testatrix have been bequeathed under the Will to the Testatrix sister's son, who is the second respondent herein. In order to prove the Will, the petitioner was examined as P.W.1. During the examination in chief of P.W.1, the following nine documents were exhibited as Ex.P1 to Ex.P9:-

Sl.No.	Description of the documents
1.	Ex.P1 - The computer generated copy of the death certificate of S.Lakshmi, who died on 01.03.2014.
2.	Ex.P2 - The photocopy of the legal heirship certificate dated 24.07.2014 in respect of Lakshmi. (Marked after comparing and verifying with the original).

Sl.No.	Description of the documents
3.	Ex.P3 – The original registered Will and Testament dated 23.01.2013 executed by Mrs.S.Parimalam @ S.Lakshmi, which has been attested by two attesting witnesses viz., Mr.V.Shanmugavelu and Mr.G.Ganesan and which was registered as Document No.4 of 2013 on the file of the Joint Sub-Registrar-II, Saidapet.
4.	Ex.P4 - The photocopy of the Water and Sewerage demand card bearing CMC Bill No.1969000000 in the name of Mrs.Lakshmi along with the photocopy of Water and Sewerage Receipt dated 28.01.2015.
5.	Ex.P5 – The property Tax Demand Card in the name of Lakshmi along with the copy of the Property Tax Receipt dated 29.01.2015.
6.	Ex.P6 – The consent affidavit given by the first respondent.
7.	Ex.P7 - The consent affidavit given by the second respondent.
8.	The affidavit of assets showing the net value of the estate as Rs.59,90,000/-
9.	The copies of the paper publication effected in one issue of Tamil daily "Makkal Kural" dated 21.04.2016 and one issue of English daily "Trinity Mirror" dated 28.04.2016.

The said documents include the death certificate of the Testatrix which was marked as Ex.P1, the original registered Will and Testament dated 23.01.2013, which was marked as Ex.P3 and the legal heirship certificate dated 24.07.2014 in respect of the Testatrix, which was marked as Ex.P2.

6. In addition, evidence was adduced by examining the second attesting witness viz., Mr.G.Ganesan, who was examined as P.W.2. The said P.W.2 deposed that the Testatrix is his wife's sister and that, therefore, he is well acquainted with her. He also deposed that the said last Will and Testament was executed in his presence and in the presence of the first attesting witness namely Mr.V.Shanmugavel.

7. In addition, he deposed that the Testatrix was in a sound, disposing state of mind, memory and understanding at the time of execution of Ex.P3, the Will.

8. Based on the foregoing, the learned counsel submitted that the petitioner has proved the Will in accordance with law and therefore, he is entitled to the grant of probate.

9. I considered the submissions of the learned counsel and examined the evidence recorded in this case.

10. Upon perusal of the Will dated 23.01.2013, it is clear that it is a registered Will, which has been registered on the same day viz.,

23.01.2013 before the Joint Sub Registrar-II, Saidapet, Chennai. The petitioner is named as the executor in the Will.

11. It has been attested by two attesting witnesses viz., V.Shanmugavelu and G.Ganesan. The Death Certificate of the Testatrix has been marked as Ex.P1 and this document evidences that she died on 01.03.2014. The second attesting witness viz., G.Ganesan was examined as P.W.2 and he has deposed that he is well acquainted with the Testatrix because she is his wife's sister. He has also deposed that the last Will and Testament was executed on 23.01.2013 in his presence and in the presence of the first attesting witness.

12. In addition, he has deposed with regard to the sound and disposing state of mind, memory, understanding of the Testatrix at the time of execution of the Will. Further, he has stated that he was also one of the identifying witnesses to the Will as evidenced by the registration particulars in the Will.

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13. I also find that both the respondents have given consent affidavits which have been marked as Ex.P6 and Ex.P7. Paper publications were also effected and marked as Ex.P9. Based on the

aforesaid evidence, I conclude that the petitioner proved the Will in accordance with law. Accordingly, this petition is allowed by directing that probate be granted to the petitioner with effect throughout the State of Tamil Nadu in respect of the last Will and Testament of Mrs.S.Parimalam, dated 23.01.2013.

14. The petitioner shall also provide a true and fair inventory of the properties and credits of the estate of the testatrix and also render full and true accounts within six months and one year respectively from the date of grant of probate.

14.02.2020

Index: Yes/No

Internet: Yes/No

Speaking Order/Non Speaking Order

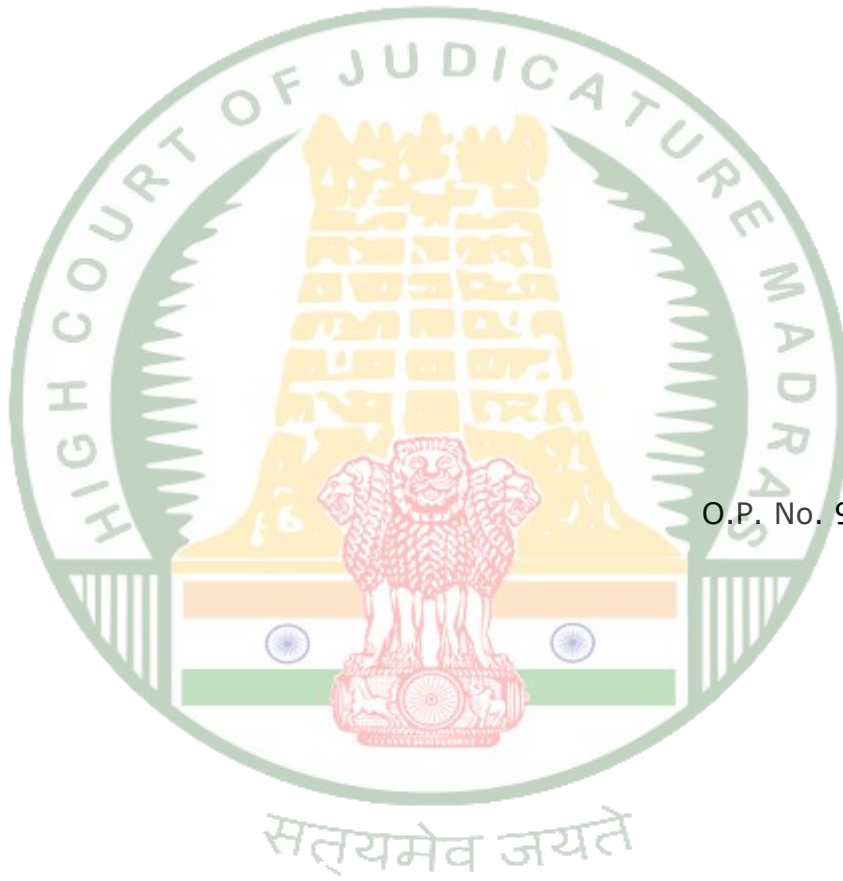
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SENTHILKUMAR RAMAMOORTHY,J.

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