

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.10.2020

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

O.P.No.513 of 2019

R.S.Krishnan (alias)
Krishnan Ramanathauram Subramaniam ... Petitioner

Vs

Aruna Prabhu (alias) Aruna Subramaniam ... Respondent

Prayer: Original Petition filed under Section 222 & 276 of Indian Succession Act, 1925 read with Order XXV Rule 4 of Original Side Rules praying that the petitioner may be allowed to prove the Will in common form and that the probate thereof to have effect limited to the state of Tamilnadu may be granted to the petitioner. .

For Petitioner सत्यमेव जयते Mr.A.R.Karunakaran

ORDER

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This petition has been filed under Sections 222 and 276 of the Indian Succession Act 1925 and under Order XXV Rule 4 of the Original Side Rules for Probate of Will.

2. The Executor of the Will of Late Mrs.Meenakshi @ Meenakshi Subramaniam @ Lalitha is the petitioner before this Court. The petitioner would contend in this petition that the petitioner apart from being the Executor of the Will of Late Mrs.Meenakshi @ Meenakshi Subramaniam @ Lalitha is also her son and the respondent is her daughter. The petitioner would submit that Mrs.Meenakshi @ Meenakshi Subramaniam @ Lalitha who died on 15.05.2016 was possessed with properties within the State of Tamil Nadu and within the Jurisdiction of this Court. The said Mrs.Meenakshi @ Meenakshi Subramaniam @ Lalitha had executed a Will at Chennai on 10.01.2016 in the presence of witnesses whose signatures also appeared in the foot of the Will. In the Will, the petitioner was named as the Executor and the Testatrix also named her husband K.Subramaniam as the Co-executor. However, the said K.Subramaniam died on 16.09.2018 and therefore, the present petition is filed by the petitioner alone. At the time of her death, the deceased Testatrix has left behind surviving her husband, the petitioner and the respondent alone as her legal representatives. Her husband, as stated earlier died on 16.09.2018. Therefore, the present petition is filed for grant of probate by the petitioner showing only his sister as the respondent.

3. The respondent though served had not entered appearance. The petitioner was examined through Video-Conferencing on 17.08.2020 and the following documents were marked as Ex.P1-Death Certificate of Late Mrs.Meenakshi @ Meenakshi Subramaniam @ Lalitha and Ex.P2-Affidavit of Assets. Thereafter, one of the attesting witnesses Mr.V.Karthikeyan was examined as PW.2 and through him the Will was marked as Ex.P3. The witness clearly deposed to the fact that Mrs.Meenakshi @ Meenakshi Subramaniam @ Lalitha was in a sound and disposing state of mind at the time of the execution of the Will and that the Will was executed by the deceased stated in the presence of the attesting witnesses and the Testatrix had seen that the attesting witnesses put their signature to the said Will.

4. The learned counsel appearing on behalf of the petitioner would submit that the attesting witnesses having deposed to the fact that the execution of the Will was done by the Testatrix in a sound and disposing state of mind. The petitioner has proved the execution of the Will. Therefore, he may be granted the probate.

5. Heard the learned counsel for the petitioner and perused the oral and documentary evidence as well as the deposition.

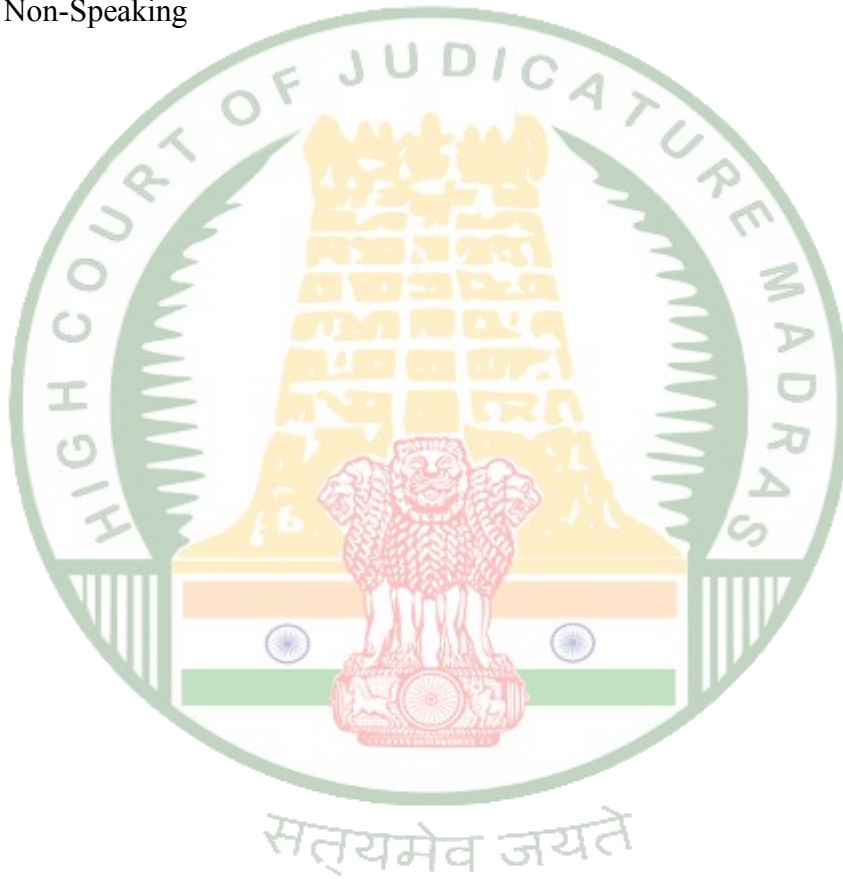
6. The Testatrix Late Mrs.Meenakshi @ Meenakshi Subramaniam @ Lalitha had executed Ex.P3-Will at Chennai, in which, she has clearly deposed to the fact that she was not making any bequest in favour of her daughter due to strained relationship. Under the Will, the properties were bequeathed on the husband of the Testatrix and in case the husband predeceased the Testatrix then all of the proprieties should fall to the share of the petitioner. The father has also made a similar bequest.

7. From the records, it is seen that the Testatrix had predeceased her husband and therefore in keeping with the recitals of the Ex.P3-Will, the same fell to the share of her husband. The attesting witness who has been examined as PW.2 has given evidence with regard to the disposing state of mind of the Testatrix and has stated that she was in a sound disposing state of mind and also the fact that both the attesting witnesses had witnessed, the Testatrix putting her signature to the Will and the Testatrix has seen them also sign at the foot of the Will. Therefore, the Will-Ex.P3 has been proved in the manner known to law.

The probate as sought for is granted. The Original Petition stands allowed.

01.10.2020.

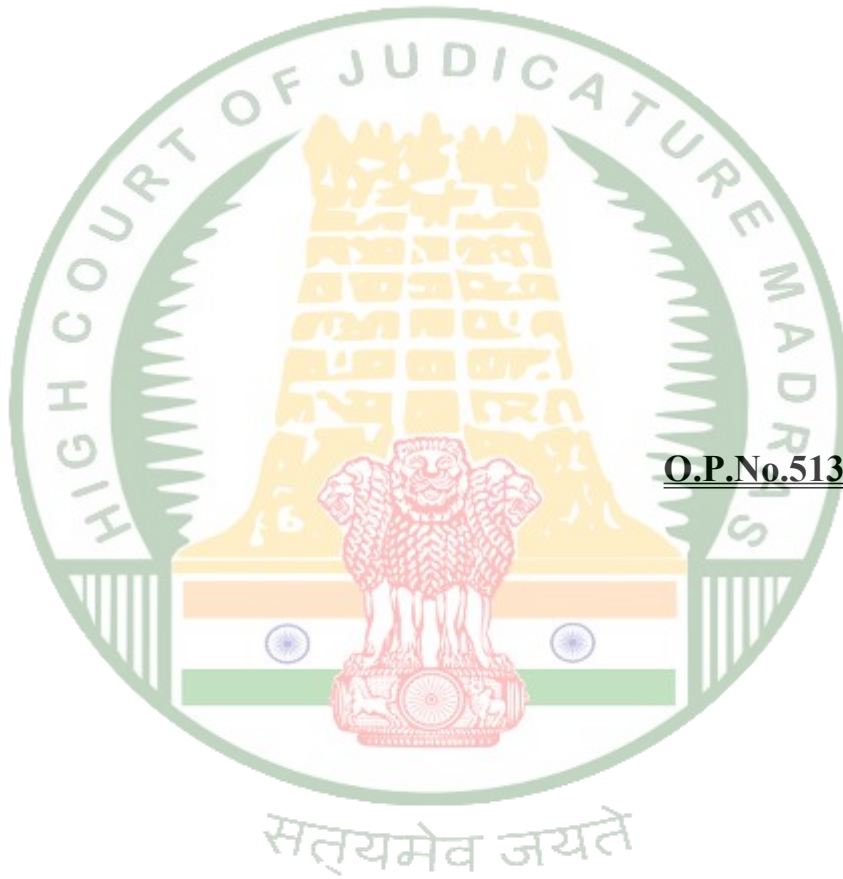
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