

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.10.2020

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

O.P.No.512 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 : Mr.A.R.Karunakaran

ORDER

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 K.Subramaniam 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 K.Subramaniam is also his son and the respondent, the daughter. The petitioner would submit that K.Subramaniam who died on 16.09.2018 was possessed the properties within the State of Tamil Nadu and within the Jurisdiction of this Court. The said K.Subramaniam had executed a Will at Chennai on 10.01.2016 in the presence of witnesses whose signatures are also appended in the foot of the Will. In the Will, the petitioner was named as the Executor and the Testator also named his wife Meenakshi @ Meenakshi Subramaniam @ Lalitha as the Co-executor. However, the said Meenakshi @ Meenakshi Subramaniam @ Lalitha died on 15.05.2016 and therefore, the present petition is filed by the petitioner alone. At the time of his death, the deceased Testator has left behind him surviving the petitioner and the respondent alone as his legal representatives. Therefore, the present petition is filed for grant of probate by the petitioner.

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 K.Subramaniam 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 K.Subramaniam 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 in the presence of the attesting witnesses and the Testator had seen 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 witness has deposed to the fact that the execution of the Will was done by the Testator in the 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 Testator Late K.Subramaniam had executed Ex.P3-Will at Chennai, in which, he had clearly deposed to the fact that he was not making any

bequest in favour of his daughter due to strained relationship. Under the Will, the properties were bequeathed on the wife of the Testator and in case the wife predeceased Testator then all of the proprieties fall to the share of the petitioner.

7. From the records, it is seen that the wife of the Testator had predeceased her husband and therefore in keeping with the recitals of the Ex.P3-Will, the properties fell to the share of the petitioner. The attesting witness who has been examined as PW.2 has deposed with regard to the sound disposing state of mind of the Testator and the fact that both the attesting witnesses had witnessed the Testator putting his signature to 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.

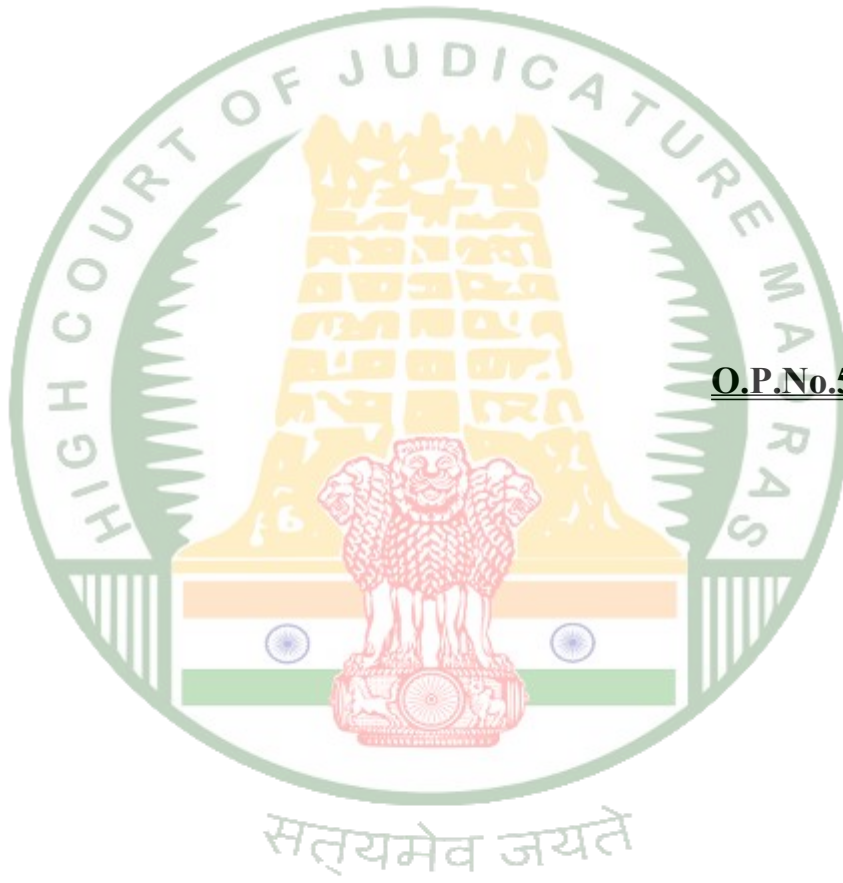
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