

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2020

C O R A M

THE HONOURABLE Ms.JUSTICE P.T.ASHA

O.P.No.543 of 2019

G. Venkatesan ... Petitioners

v.

1.Devasena

2.Sumathi

... Respondents

Prayer: Original Petition filed under Sections 232 and 276 of the Indian Succession Act read with Order XXV Rule 5 of the Original Side Rules praying for grant of Probate in respect of the last Will and the testament of the deceased T.P.Govindarajan.

For petitioners : Mr.J. Nandagopal

ORDER

The above petition is filed for grant of Probate in respect of the last Will and the Testament of the deceased T.P.Govindarajan.

2.The case of the petitioner is that T.P.Govindaraj, the husband of

the 1st respondent and the father of the petitioner and the 2nd respondent, has purchased the properties at Amainthakarai and Nanganallur. The Testator had purchased the said properties all of which have been described in his last Will and Testament out of his own self earnings. The petitioner would submit that the said Govindaraj was admitted in SIMS SRM Institute, Vadapalani, Chennai, on 14.04.2018 on account of respiratory distress. While taking treatment in the hospital, he had consulted his family members, namely, the petitioner and the respondents as well as his elder brother Ganesan regarding the bequest and on 09.05.2018, had proceeded to execute the Will, while he was still in the hospital. He died in the hospital on 24.05.2018. The petitioner would contend that under the Will, the 1st respondent was given a life estate in all the properties and on her demise, the properties were to devolve on the son, namely, the petitioner in respect of a Flat at Amainthakarai and a Flat at Nanganallur and the lands were to be taken by the 2nd respondent. The petitioner is the executor of the Will and also one of the legatee in the said Will. Therefore, this Original Petition has been filed by the petitioner.

3.The petitioner has examined himself as PW1 and has marked the

Original Will dated 09.05.2018 as Ex.P.1. The Certified copy of the Sale Deed as Ex.P.2. The Original Certificate issued by Dr.S.Mahendran, Senior Consultant, SIMS Institutes for Medical Science as Ex.P.3, the Death Certificate of the Testator as Ex.P.4 and the Legal Heirship Certificate as Ex.P.5. The consent affidavits have been marked as Ex.P.6 and Ex.P.7 . The affidavit of assets showing the net value of the estate as Ex.P.8, the paper publication effected in one issue of Tamil daily “Malai Sudar” dated 13.12.2019 as Ex.P.9 and the paper publication effected in one issue of English daily “News Today” dated 13.12.2019 as Ex.P.10. The affidavit of one of the attesting witnesses Mr.R.G.Mani Muthu has been marked as Ex.P.11 and one of the attesting witnesses Mr.Mohan Doss has adduced evidence as PW2. The said Mohan Doss would state that the Will had been executed by the deceased in a sound disposing state of mind and that the attesting witness had seen the testator when he executed the Will Ex.P.1 and likewise, the testator had also seen both the attesting witnesses affix their signatures to the Will.

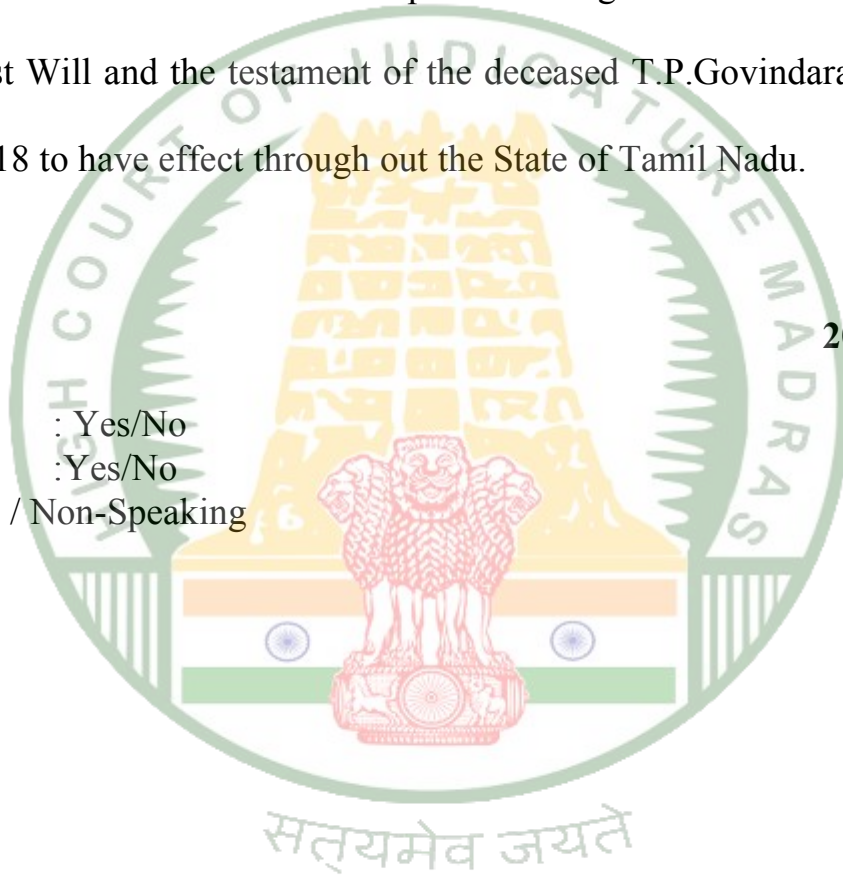
P.T. ASHA. J.

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Taking into account the oral and documentary evidence and particularly, the evidence of PW2, the attesting witness, the petitioner has proved the Will in accordance with law. In the light of the above, the Original Petition is allowed and the petitioner is granted Probate in respect of the last Will and the testament of the deceased T.P.Govindarajan dated 09.05.2018 to have effect through out the State of Tamil Nadu.

20.03.2020

Internet : Yes/No
Index : Yes/No
Speaking / Non-Speaking
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