

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(TESTAMENTARY AND INTESTATE JURISDICTION)

WEDNESDAY, THE 05TH DAY OF FEBRUARY 2020

THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

O.P.No.569 of 2019

In the matter of the Indian
Succession Act, XXXIX of
1925

and

In the matter of Last Will and
Testament of A.V.Krishnan
(deceased)

RUKMANI R.VISWANATHAN

Old No.**2, New No.** 3, Ganesh Street,
Gopalapuram, Chennai-600086.

**** (Amended as per order in
A.No.9176/2019 dated 28/11/19)**

PETITIONER

-VS-

1.MUMBA MURALI
W/o.C.S.Murali No.682-N/40,
Caladium Villa, Nazarbad,
Bazar Street, Mysore-570010.

2. DURGA RAM
D/o.A.V.Krishnan
Old No.**2,
New No.** 3, Ganesh Street,
Gopalapuram, Chennai-600086.

3. R.V.GAYATRI

Old No.**2, New No.**3, Ganesh Street,
Gopalapuram, Chennai-600086.

..Respondents

**** (amended as per order in A.No.9176/2019 dated 28/11/19)**

Original Petition praying that this Hon'ble Court be pleased that she may be allowed to prove the Will in common form and that Probate thereof to have effect throughout the Union of India may be granted to her.

This Original Petition coming on this day before this court for hearing the court made the following order:

This petition has been filed for grant of Probate to the petitioner in respect of the last Will and Testament dated 30.01.2018 of Mr.A.V.Krishnan.

2. I heard the learned counsel for the petitioner. All the respondents have filed their consent affidavits stating that they have no objection to the grant of probate to the petitioner.

3. The learned counsel for the petitioner submitted that the petitioner is the grand-daughter of the testator. She is also one of the beneficiaries under the Will along with the third respondent. He submitted that the testator was a permanent resident of Old No.2, New No.3, Ganesh Street, Gopalapuram, Chennai-86, which is within the jurisdiction of this Court.

He also submitted that the testator executed his last Will and Testament on 30.01.2018 at Chennai and that the said Will was duly registered on the file

of the SRO, Mylapore on the same day vide document no.7 of 2018. The petitioner is the sole executrix of the said Will. The testator died on 23.12.2018 at Bengaluru, Karnataka. In order to prove the Will, the learned counsel for the petitioner submitted that the petitioner was examined as PW1 and 6 documents were exhibited through PW1. In addition, one of the attesting witnesses to the Will namely, Mr.D.Jayaprakash was examined as PW2. The said PW2 deposed that the testator was his family friend and therefore, he was well acquainted with the testator. He also deposed that the last Will and Testament was executed in his presence and in the presence of the other attesting witness, namely Mrs.T.P.Venkateswari. In addition, he deposed that the testator was in a sound and disposing state of mind, memory and understanding at the time of execution of Ex.P2, Will and he was also one of the identifying witnesses to the Will Ex.P2 at the time of registration of the Will Ex.P2 before the SRO, Mylapore. For all these reasons, the learned counsel for the petitioner submitted that the petitioner is entitled to the grant of Probate of the Will.

4. I considered the submissions of the learned counsel for the petitioner and examined the evidence placed on record in this case. I find that the Death Certificate of the testator has been marked as Ex.P1 and this document shows that he died on 23.12.2018. The original registered Will

that it was registered as Document no.7 of 2018 on the file of the SRO, Mylapore. In addition, it discloses that the petitioner is the executrix and the attesting witnesses to the said Will, are Mr.D.Jayaprakash and Mrs.T.P.Venkateswari. One of the attesting witnesses, namely, Mr.D.Jayaprakash, was examined as PW2 and he deposed that he was well acquainted with the testator because the testator was his family friend. He also deposed that the last Will and Testament was executed on 30.01.2018 in his presence and in the presence of the other attesting witness, namely, Mrs.T.P.Venkateswari. In addition, he deposed that he was also one of the identifying witnesses to the Will Ex.P2 at the time of registration of the Will Ex.P2 before the SRO, Mylapore. I find that each of the respondents has submitted their consent affidavits, which were marked as Exs.P3 to Ex.P5. Based on the foregoing, I find that the petitioner has proved the Will in accordance with law.

5. Therefore, this petition is allowed by directing that Probate with the Will annexed be granted to the petitioner in respect of the last Will and Testament dated 30.01.2018 of Mr.A.V.Krishnan to have effect throughout the State of Tamil Nadu. The petitioner is directed to execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five thousand only) in the name of the Assistant Registrar (Original Side), High Court of Madras. The petitioner

render a full and true account within a period of six months and one year, respectively, from the date of grant of Probate.

Sd/.S.K.R.J.

05.02.2020

//Certified to be a true copy//
Dated this the day of 2020.

SU/26.02.2020

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.



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