

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**Dated : 06.07.2020**

**CORAM**

**THE HONOURABLE Ms. JUSTICE P.T. ASHA**

**O.P.No.835 of 2019**

Mr.J.Ravi

... Petitioner

Vs.

1.Mr.S.Mohan

2.Mr.S.Ponnambalam

3.Mrs.R.Valliammal

4.Mrs.S.Rajeswari

... Respondents

**Prayer:** Original Petition filed under Section 222 and 276 of Indian Succession Act 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.D.Gopinathan

**ORDER**

The above petition has been filed for probate of the Will of late M.Gopal to have effect in the state of Tamil Nadu. The petitioner is the executor of the said Will.

2. The contents of the petition would reveal that the said M.Gopal was living at No.32/38, Poompuhar Street, Rani Anna Nagar, Arumbakkam, Chennai - 600 106. This property had been purchased by the said Gopal out of his self earned funds and he has been in possession and enjoyment of the same absolutely. The said M.Gopal was married to one Kalyani and the two were not blessed with children. It appears that the said M.Gopal was taken care of by the 1st respondent, namely, S.Mohan who is none other than the son of the deceased Gopal's Wife's brother's Sadaiyan. The said Gopal had executed the will dated 10.02.2018 bequeathing a life interest to his wife Kalyani and thereafter the property was to devolve absolutely upon the 1st respondent.

3. The said Gopal died on 14.04.2018 and his wife passed away four months thereafter on 13.08.2018. Therefore, the petitioner as the executor of the said Will has filed the above petition. The petitioner has examined himself as P.W.1 and has marked Ex.P.1 to Ex.P.11. Ex.P.1 being the original unregistered last Will and Testament of the deceased Gopal executed on 10.02.2018. The death certificate of the said Gopal has been marked as Ex.P.2, the Legal Heirship certificate is marked as Ex.P.3, the death certificate of Testator's wife Kalyani is marked as Ex.P.4. Ex.P.5 is the xerox copies of the sale deed under which the property was purchased by the Testator. Ex.P.6 is the encumbrance certificate in respect of the property for the period 01.01.2004 to 08.04.2019. Ex.P.7 to Ex.P.10 are the consent affidavits given by the respondents.

4. The attesor of the will one P.Ramesh has been examined as P.W.2 and he has adduced evidence to the effect that he and the other attesting witness T.Ayyapparaj had seen the Testator executing the said will and they had also seen each other subscribe their signature to the Will

and the Testator had also seen the two attesting witnesses do so. The witness would also state that the Testator was in sound disposing state of mind on the date of the execution of the Will, Ex.P.1.

5. Considering the oral and documentary evidence adduced and taking into account the consent affidavits that has been filed by the respondents 1 to 4 and also considering the fact that one of the attesting witnesses have adduced evidence about the execution and the state of mind of the Testator, the said Will Ex.P.1 have been proved in the manner known to law. The probate as sought for is granted. The Original Petition stands allowed. No costs.

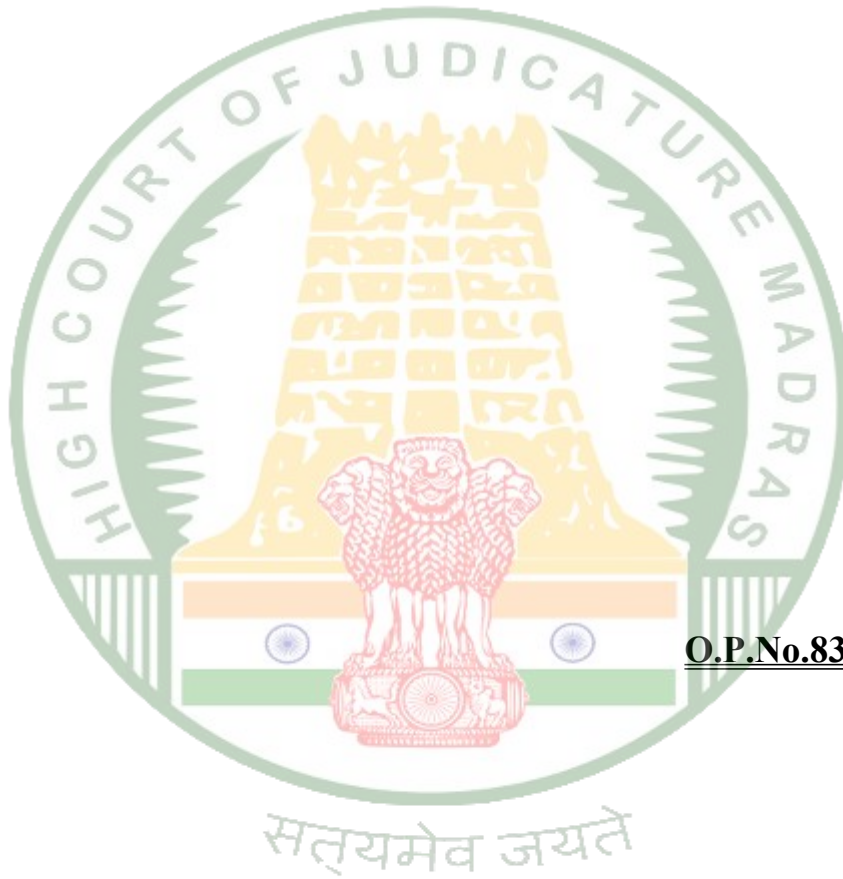
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**P.T. ASHA. J.**

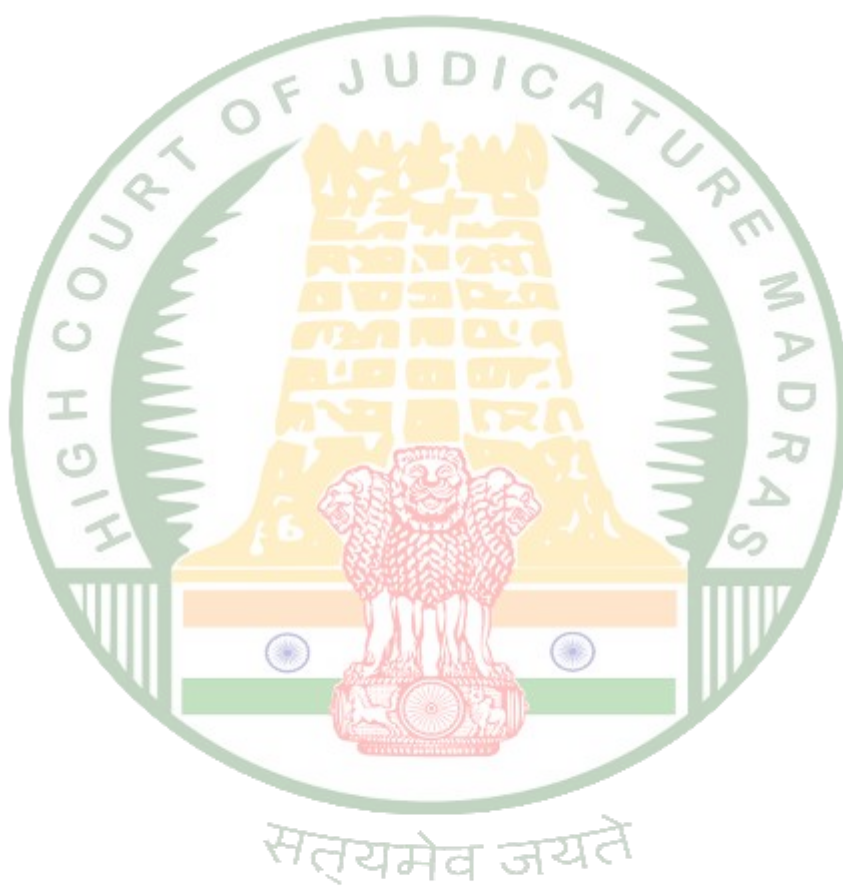
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