

O.P.No.602 of 2018

SENTHILKUMAR RAMAMOORTHY J.

This Petition is filed under Section 222 and 276 of the Indian Succession Act, 1925 r/w Order XXV Rule 4 of the Original Side Rules for the grant of probate to the petitioner.

2. I heard the learned counsel for the petitioner and the learned counsel for the sole respondent.

3.The learned counsel for the petitioner submitted that the petitioner is the son of the testator and the named executor under the Will. He also submitted that the sole respondent is the elder sister of the petitioner.

4. The learned counsel for the respondent submitted that she has no objection to the grant of probate and that the respondent had provided a consent affidavit in this regard. The learned counsel also submitted that evidence was adduced in order to prove the Will by examining the petitioner as P.W.1. During the course of the examination in chief of P.W.1, the following 12 documents were exhibited as Exs.P1 to P12:

(1) Ex.P1 is the computer generated death certificate of the deceased K.C.Mathew, who died on 19.11.2012.

(2) Ex.P2 is the original last Will and Testament executed by the deceased Mr.K.C.Mathew on 11.10.1999, registered as Doc.No.144 of 1999 at SRO, Kodambakkam.

(3) Ex.P3 is the computer generated death certificate of Rachel

Mathew, who died on 14.06.2015.

(4) Ex.P4 is the photocopy of the Legal Heirship Certificate dated 24.07.2015 in respect of the deceased K.C.Mathew.

(5) Ex.P5 is the photocopy of the sale deed dated 22.08.1964 registered as Doc.No.2709 of 1964 at SRO. Saidapet in favour of the deceased K.C.Mathew (Marked after comparing and verifying with the original).

(6) Ex.P6 is the photocopy of patta dated 07.08.1997 (Marked after comparing and verifying with the original).

(7) Ex.P7 is the photocopy of the TSLR dated 26.02.2010 (Marked after comparing and verifying with the original).

(8) Ex.P8 (series 2 Nos) are the photocopies of the property tax receipts dated 09.04.2018 and 06.05.2018.

(9) Ex.P9 is the photocopy of the water tax card along with receipt dated 27.04.2017.

(10) Ex.P10 is the photocopy of the electricity bill card along with receipt dated 15.03.2018.

(11) Ex.P11 is the consent affidavit given by the respondent herein stating that she has no objection in grant of Probate in favour of petitioner.

(12) Ex.P12 is the affidavit of assets showing the net value of the estate as Rs.80,20,000/-.

5. These documents include the death certificate of the testator, which was marked as Ex.P1. The original Last Will and Testament executed by the

testator on 11.10.1999, which was registered as Document No.144/1999 at the Sub Registrar Office, Kodambakkam. The death certificate of the petitioner's mother, Rachel Mathew, was marked as Ex.P3. The consent affidavit of the respondent is marked as Ex.P11. He also submitted that one of the attesting witnesses to the Will, namely, Mr.T.Sundar Rajan, was examined as P.W.2. He deposed that he was well acquainted with the testator, Mr.K.C.Mathew. He also deposed that the Last Will and Testament dated 11.10.1999 was executed in his presence and in the presence of Mr.P.K.Rajendaran.

6. In addition, he deposed that the testator was in a sound, disposing state of mind, memory and understanding at the time of execution of Ex.P2 Will.

7. Based on the aforesaid, the learned counsel submitted that the Will had been proved in accordance with law and that the petitioner is entitled to the grant of a probate.

8. I considered the submissions of the learned counsel for the petitioner and the respondent and examined the evidence recorded in this case. Upon consideration thereof, I find that the death certificate, which was marked as Ex.P1, evidences that the testator died on 19.11.2012. Upon examining the Last Will and Testament, which was marked as Ex.P2, I find that it is a registered Will which was registered as document No.144/1999 by the Sub Registrar Office, Kodambakkam. This document reflects that the petitioner is the executor and that it is attested by two witnesses, namely Mr.T.Sundar Rajan and Mr.P.K.Rajendran. The said Mr.T.Sundar Rajan was examined as P.W.2. He has

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deposed that the Last Will and Testament was executed in his presence and in the presence of the other attesting witness Mr.P.K.Rajendran. He also deposed that the testator was in a sound and disposing state of mind, memory and understanding at the time of execution of the Will.

9. Upon consideration of the aforesaid, I find that the petitioner has proved the Will in accordance with law. Therefore, this petition is allowed by directing that Probate be granted to the petitioner with effect limited to the State of Tamilnadu. The petitioner is directed to make a full and true and fair inventory of the property and credits and exhibit the same before the Court within six months and also provide a true and fair account of the property and credits within a period of one year from the date of grant of probate.

13.02.2020

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