

O.P.No.459 of 2019

SENTHILKUMAR RAMAMOORTHY J.

This Petition is filed under Section 232 and 276 of the Indian Succession Act, 1925 r/w Order XXV Rule 5 of the Original Side Rules for grant of Letters of Administration with the Will annexed to the Petitioners in respect of the Last Will and Testament of Miss.S.Kethara Gowri dated 31.05.2018.

2. I heard the learned counsel for the Petitioner. The learned counsel submitted as follows. The Petitioner is the nephew of the testatrix and the Respondents are the siblings of the testatrix. The testatrix originally resided at Flat No.G2, B-Block, AKS Garden, Ramagiri Nagar, Velachery, Chennai – 600 042, which is within the jurisdiction of this Court. The said testatrix executed her last Will and Testament at Chennai on 31.05.2018 in the presence of Dr.P.Ravisankar and R.Baskaran, who were the attesting witnesses to the Will.

3. In order to prove the Will, evidence was adduced by examining the Petitioner as P.W.1. During the course of the examination in chief of P.W.1, the following 16 documents were exhibited as Exs.P1 to P16:

(1) Ex.P1 is the certified copy of the Sale Deed dated 27.08.2004 executed by A.Kamalakannan in favour of S.Kethara Gowri.

(2) Ex.P2 is the photocopy of the Construction Agreement dated 28.07.2004 entered into between M/s.P.J.Promotors represented by its Proprietrix Mrs.A.Jagatheeswari and S.Kethara Gowri.

(3) Ex.P3 is the original last Will dated 31.05.2018 executed by S.Kethara Gowri, which has been attested by two attesting witnesses, namely, Dr.P.Ravi Shankar and Mr.R.Baskaran.

(4) Ex.P4 is the computer generated death certificate of S.Kethara Gowri, who died on 12.02.2019.

(5) Ex.P5 is the photocopy of the property tax demand card standing in the name of S.Kethara Gowri along with online statement of property tax payment.

(6) Ex.P6 is the online Encumbrance Certificate dated 04.04.2019.

(7) Ex.P7 is the affidavit of assets showing the net value of the estate as Rs.52,00,000/-

(8) Ex.P8 is a copy of paper publication effected in one issue of Tamil daily "Thina Boomi" dated 05.10.2019.

(9) Ex.P9 is a copy of paper publication effected in one issue of English daily "Virtual Times" dated 12.10.2019.

(10) Ex.P10 is the consent affidavit given by the first Respondent.

(11) Ex.P11 is the consent affidavit given by the second Respondent.

(12) Ex.P12 is the consent affidavit given by the 3rd Respondent.

(13) Ex.P13 is the consent affidavit given by the 4th Respondent.

(14) Ex.P14 is the consent affidavit given by the 5th Respondent.

(15) Ex.P15 is the consent affidavit given by the 6th Respondent.

(16) Ex.P16 is the consent affidavit given by the 7th Respondent.

4. In addition, he pointed out that one of the attesting witnesses, namely, Dr.P.Ravisankar was examined as P.W.2. He also deposed that the testatrix was his neighbour and that he was therefore, acquainted with her. He further deposed that the last Will and Testament was executed in his presence and in the presence of the other witness, namely, S.Baskaran on 31.05.2018. He further deposed that the testatrix was in a sound and disposing state of mind,

memory and understanding at the time of execution of Ex.P3 Will. On the above basis, he contended that the Petitioner has proved the Will in accordance with law.

5. I considered the submissions of the learned counsel for the Petitioner and examined the evidence recorded in this case.

6. From the evidence, I find that the original Will dated 31.05.2018 has been marked as Ex.P3. This document reflects that the assets specified in the schedule thereof were bequeathed in favour of the nephew of the testatrix, namely, G.Sivaprakash, who is the Petitioner herein. It also reflects that the Will has been attested by two witnesses, namely, Dr.P.Ravisankar and R.Baskaran. The said Dr.P.Ravisankar was examined as P.W.2. He deposed that he was well acquainted with the testatrix because she was his neighbour and that the Last Will and Testament was executed in his presence and in the presence of the other attesting witness, Mr.R.Baskaran. He also deposed with regard to the sound and disposing state of mind, memory and understanding of the testatrix at the time of execution of the Will. I find that all the Respondents, who are the siblings of the testatrix, have submitted their consent affidavits, which have been marked as Ex.P10 to Ex.P16. Paper publications were also effected, which have been marked as Exs.P8 and P9.

7. Upon examination of the aforesaid evidence, I find that the Petitioner has duly proved the Will in accordance with law. Accordingly, this Petition is allowed by directing that Letters of Administration with the Will annexed be granted to the Petitioner in respect of the Last Will and Testament of S.Kethara Gowri dated 31.05.2018 to have effect throughout the State of Tamil Nadu. The Petitioner shall execute a security bond for a sum of Rs.25,000/- in the name of the Assistant Registrar, Original Side, High Court, Madras and shall provide to this Court a full and fair inventory and a true account of the estate within a period of 6 months and one year, respectively, from the date of receipt of a copy of this order.

14.02.2020

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