

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.07.2020

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

O.P.No.911 of 2016

Mrs.Geethasrinivasan

... Petitioner

Vs.

1.Padma Chidambaram (died)

2.Sarada Krishnamoorthy

3.Vanaja Rajagopalan

4.C.V.Ramanan

... Respondents

(Respondents 3 & 4 brought on record as LR of deceased 1st respondent as per order dated 03.01.2019 made in A.No.6 of 2019)

सत्यमेव जयते

Prayer: Original Petition filed under Section 222 & 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 Last Will and Testament dated 07.04.1997 of the deceased E.S.Govindarajan in common form and that probate thereof to have effect limited to the State of Tamil Nadu may be granted to the petitioner.

For Petitioner : Ms.Vasudha Thiagarajan

ORDER

The above petition is filed for grant of probate in respect of the last Will and Testament of one E.S.Govindarajan dated 07.04.1997.

2. The petitioner would contend that the said E.S.Govindarajan who is the paternal uncle of the petitioner herein was ordinarily residing within the jurisdiction of this Court at Mandaveli where he died on 09.12.2011. Prior to his death the Testator has executed a last Will and Testament dated 07.04.1997 in the presence of witnesses E.S.Ramanathan (the brother of the Testator and the father of the petitioner herein) and G.Rajagopalan. The petitioner had been named as Executrix in the Will and the property was to devolve upon her. The Testator's wife had also died on 24.05.2014. The petitioner has therefore filed the petition. The sisters of the deceased Testator had been arrayed as respondents 1 and 2 they being his only next kith and kin. Since the 1st respondent had died pending the disposal of the petition, her legal heirs have been brought on

record as respondents 3 and 4.

3. When filing the petition the petitioner has obtained the affidavit of one of the attesting witness G.Rajagopalan. The other witness, E.S.Ramanathan who is none other than the petitioner's father, had died and the same also finds mention in the petition. By the time the matter was posted for evidence the other attesting witness Mr.G.Rajagopalan also passed away on 11.03.2019. The affidavit of the attesting witness, namely, G.Rajagopalan was signed by him on 23.02.2015.

4. Considering the fact that both the attesting witness are no more, the petitioner has examined the wife of the said G.Rajagopalan one V.Shakuntala as P.W.2. She has adduced evidence to the fact that the signature shown as that of the attesting witness and as the identifying witness was that of her husband, G.Rajagopalan.

5. Apart from the said Shakuntala one Viswanathan who is the son-in-law of the Testator's sister has adduced evidence as P.W.3. He has

stated that the signature found in the Will is that of the Testator, E.S.Govindarajan. He has also submitted that he is aware of the signature of the attesting witness E.S.Ramanathan and G.Rajagopalan and the signature so found in the Will Ex.P.1 is that of attesting witnesses named above.

6. The petitioner as P.W.1 has marked Ex.P.1 to Ex.P.8 and the consent affidavit of the 2nd respondent has been marked as Ex.P.7. The petitioner has produced the death certificate of the Testator (Ex.P.2), his wife G.meenakshi (Ex.P.3), E.S.Ramanathan, the second attesting witness (Ex.P.4) and the first attesting witness G.Rajagopalan (Ex.P.6). The legal heirship certificate of the said E.S.Ramanathan has also been produced as Ex.P.5.

7. The petitioner has proved the Will by examining the persons familiar with the signatures of the Testator and the persons who have signed as attesting witnesses since both the attesting witnesses are no more. One of the respondents has given her consent affidavit and the other

respondents though served have not entered appearance nor filed their counter.

8. Considering the above facts, the Original Petition is allowed and probate granted to the petitioner. No costs.

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