

O.P.No.873 of 2019

SENTHILKUMAR RAMAMOORTHY, J

This petition has been filed under Sections 222 and 276 of the Indian Succession Act 39 of 1925 read with Order XXV Rule 4 of Original Side Rules for grant of Probate in respect of the last Will dated 26.06.2005 of Mrs.Gomathi Krishnan, who is the mother of the petitioners.

2. I heard the learned counsel for the petitioners and the learned counsel for the respondent.

3. The learned counsel for the petitioners submits that the petitioners are the sons of the testatrix and that the sole respondent is her daughter. She further submits that the testatrix died on 12.07.2005 at Chennai and that she ordinarily resided at No.27, Old No.13, Yogambal Street, T.Nagar, Chennai 600 017, which is within the jurisdiction of this Court. She further submits that the last will of the testatrix was attested by two witnesses, namely Mr.C.Ramachandran and Mrs.Mathura Alladi, who is the sole respondent in the petition. In order to prove the Will, evidence was adduced, the first petitioner was examined as P.W.1 and the following documents were exhibited through P.W.1 as Exs.P1 to Ex.P6.

- a) Ex.P1 is the original unregistered Will dated 26.06.2005 executed by Mrs.Gomathi Krishnan, which has been attested by two attesting witnesses namely 1.Mr.C.N.Ramachandran and 2.Mrs.Mathura Alladi.
- b) Ex.P2 is the computer generated copy of the death certificate of Mrs.Gomathi, who died on 12.07.2005.
- c) Ex.P3 is the computer generated copy of the death certificate of C.N.Ramachandran, who died on 21.08.2018.
- d) Ex.P4 is the original Legal Heirship certificate dated 11.07.2006 in respect of Mrs.Gomathi.
- e) Ex.P5 (series 28 Nos) are the photocopies of the share certificate in the name of Mrs.Gomathi Krishnan (Marked after comparing and verifying with the originals).
- f) Ex.P6 is the affidavit of assets showing the net value of estate as Rs.15,00,000/-

6. In addition, evidence was adduced through the sole respondent, Mrs.Mathura Alladi, who is also one of the attesting witnesses. She was examined as PW2 and stated that the Will was executed on 26.06.2005 by the testatrix in her presence and in the presence of Mr.C.N.Ramachandran. She also stated that the testatrix was in a sound and disposing state of mind, memory and understanding at the time of execution of Ex.P2-Will. She also stated that she has no objection for the grant of probate in respect of the Will

(Ex.P1) executed by her mother and the said consent affidavit was marked as Ex.P7. The learned counsel for the petitioners submitted that therefore this petition is liable to be allowed.

7. The petitioners have stated in the petition that no application was made previously to any District Court or delegate or to any high Court for probate of any Will of the deceased or for letters of administration with or without a Will annexed thereto.

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

9. From the foregoing, it is clear that the testatrix died on 12.07.2005 as evidenced by Ex.P2 (Death certificate). The original unregistered Will dated 26.06.2005 was marked as Ex.P1. The sole respondent cum attesting witness to the Will deposed that the Will was executed in her presence. The said attesting witness is the daughter of the testatrix. She also deposed that the testatrix was in a sound and disposing state of mind during the execution of the Will. The Petitioners have explained the delay in filing the petition in paragraph 8 of the petition by stating that they received the necessary advice

SENTHILKUMAR RAMAMOORTHY, J.
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to file the petition for probate just before the petition was filed. In the facts and circumstances of the case, the explanation is acceptable.

10. Based on the foregoing, I find that the petitioners have proved the Will in accordance with law. Therefore, the petitioners are entitled to grant of probate. Accordingly, this Original Petition is allowed by granting a Probate to the petitioners in respect of the Last Will and Testament dated 26.06.2005 of the deceased late Gomathi Krishnan, to have effect throughout the State of Tamil Nadu. The petitioners shall execute a bond for a sum of Rs.25,000/- in favour of the Assistant Registrar (Original Side). The petitioners shall also file a full and true inventory and true accounts of the property and credits of the testatrix, within a period of six months and one year from the date of this order.

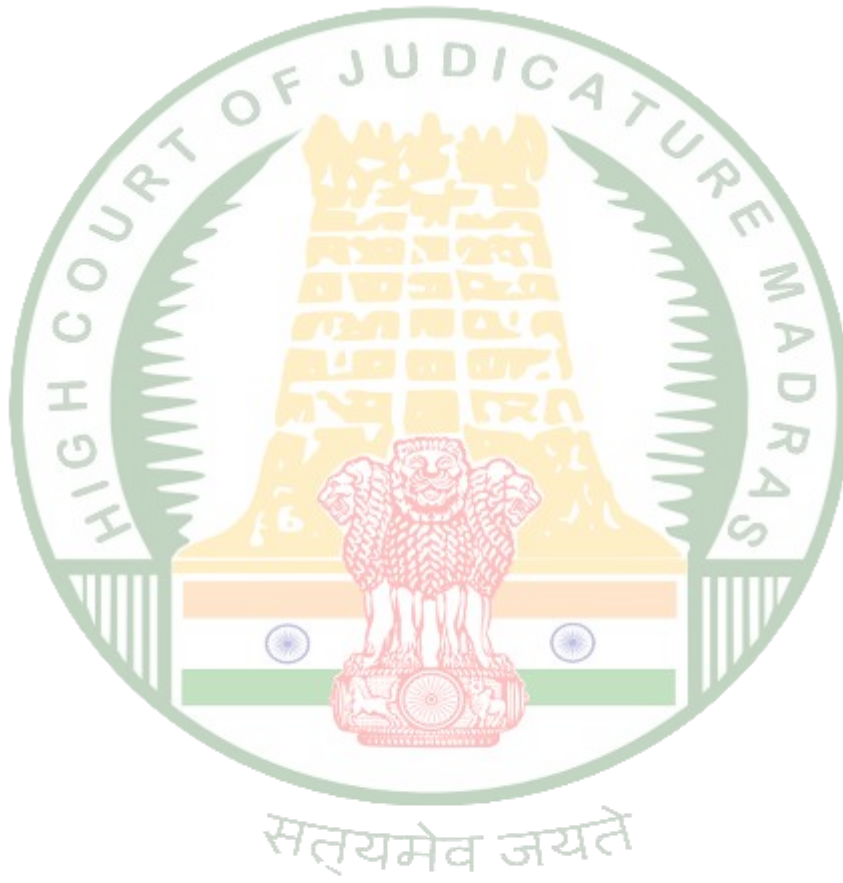
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