

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2020

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

O.P.No.898 of 2019

V.Nagarajan

...Petitioner

Vs.

V.Susila

...Respondent

Original Petition filed under Section 232 and 276 of the Indian Succession Act, 1925, read with under Order XXV Rule 5 of the Original Side Rules, praying that the Letters of Administration with the Will annexed may be granted to the petitioner as brother/beneficiary under the Will of the deceased.

For Petitioner : Mr.S.Parthasarathy

ORDER

This petition is filed for the grant of Letters of Administration with the Will annexed in respect of the last Will and Testament dated 21.12.2018 of the late Mr.V.Appavu.

2. I heard the learned counsel for the petitioner.

3. The learned counsel for the Petitioner submitted that the petitioner is the brother of the Testator and the respondent is the mother

of the petitioner. The learned counsel further submitted that the Testator permanently resided at No.2/19, Subbu Street, Thiruvanmiyur, Chennai-41 and executed his last Will and Testament in the presence of two witnesses viz., Mr.A.Natarajan and Mr.D.Anandraj. The learned counsel pointed out that the said Testator died as a divorcee without children on 21.02.2019.

4. In order to prove the Will, the learned counsel for the Petitioner submitted that the petitioner was examined as P.W.1. During the course of the examination in chief of P.W.1, the following 14 documents were exhibited as Ex.P1 to Ex.P14:

Sl. No.		Description of documents
1	Ex.P1	The original Will and Testament dated 21.12.2018 executed by V.Appavu, which has been attested by two attesting witnesses viz., M.A.Natarajan and Mr.D.Anandraj.
2	Ex.P2	The Computer generated death certificate of Appavu, who died on 21.02.2019.
3	Ex.P3	The photocopy of the form of change of nomination submitted by V.Appavu in respect of his Life Insurance Policy bearing No.706956390 along with the photocopy of the policy bond.
4	Ex.P4	The certified copy of the Order dated 21.02.2017 passed in O.P.no.2873 of 2016 by the Principal Family Court at Chennai.
5	Ex.P5	The computer generated death certificate of Veera Raghavan, who died on 05.03.2018.

Sl. No.		Description of documents
6	Ex.P6	The certified copy of the Settlement Deed dated 31.07.2015 executed by G.Veera Raghavan in favour of V.Appavu
7	Ex.P7	The photocopy of the death information report dated 21.02.2019 given by the Sub Inspector of Police, J6 Thiruvannamiyur Police Station, Chennai-41.
8	Ex.P8	The computer generated legal heirship certificate dated 12.07.2019 in respect of Mr.Appavu.
9	Ex.P9	The online guideline value statement along with the computed generated extract from the Town Survey Land Register in respect of the property comprised in Survey No.30/1 and Survey No.30/2, situated at Ward 1, Block 21, Dr.Muthulakshmi Salai, Thiruvannamiyur.
10	Ex.P10	The photocopy of the certificate of encumbrance dated 20.07.2015 in respect of the property in Survey No.136.
11	Ex.P11	The photocopy of the Aadhaar Card of the petitioner V.Nagarajan bearing No.7781 3874 3694.
12	Ex.P12	The affidavit of assets showing the net value of the estate as Rs.46,51,000/-
13	Ex.P13	A copy of paper publication effected in one issue of English daily "Virtual Times" dated 14.01.2020.
14	Ex.P14	A copy of paper publication effected in one issue of Tamil daily "Thina Boomi" dated 22.01.2020.

These documents include the original Will and Testament dated 21.12.2018, the death certificate of the Testator, which evidences that he died on 21.02.2019, the certified copy of the Order dated 21.02.2017 passed in OP. No.2873 of 2016 by the Principal Family Court, Chennai and the Paper Publications effected in one issue of the English daily

"Virtual Times" dated 14.01.2020 and in one issue of Tamil daily "Thina Boomi" dated 22.01.2020.

5. In addition, the learned counsel pointed out that both the attesting witnesses to the Will viz., Mr.A.Natarajan and Mr.D.Anandraj, were examined as P.W.1 and P.W.2 respectively. P.W.2 deposed that the Testator was his friend and that the the last Will and Testament was executed on 22.12.2018 in his presence and in the presence of Mr.D.Anandraj. He further deposed that the Testator was in a sound, disposing state of mind and understanding at the time of execution of Ex.P1 the Will. He pointed out that the evidence of P.W.3 was to similar effect.

6. On the above basis, the learned counsel submitted that the Will has been proved in accordance with law and that the petitioner is entitled to the grant of Letters of Administration.

7. I considered the submissions of the learned counsel and examined the evidence recorded in this case. On perusal of the Will dated 21.12.2018, I find that the property mentioned in the schedule to the petition has been bequeathed under the said Will in favour of the petitioner, who is the brother of the Testator. It is recorded in the said

Will that the petitioner is required to utilise the income from the property bequeathed under the Will to look after his mother during her lifetime.

8. I also find that the divorce decree in O.P.No.2873 of 2016 has been marked as Ex.P4. This document evidences that the Testator's marriage with his ex-wife B.Ranjitha was dissolved on 21.02.2017. It also records that they did not have children.

9. In order to prove the signature of the Testator and the attesting witnesses, evidence was adduced through both the attesting witnesses. The said attesting witnesses have clearly deposed that they were friends of the Testator and that the last Will and Testament was executed in their presence. In addition, they have deposed that the Testator was in a sound, disposing state of mind and understanding at the time of execution of Ex.P1 the Will.

10. Upon examining the aforesaid evidence, I find that there is no impediment to the grant of Letters of Administration to the petitioner, who has proved the Will in accordance with law. Consequently, this Original Petition is allowed and it is directed that the Letters of Administration be granted to the petitioner with the Will annexed.

11. The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five thousand only) in the name of the Assistant Registrar (Original Side), High Court of Madras. The petitioner shall also file a full and true inventory of the property and credits and also true accounts within a period of six months and one year, respectively, from the date of grant of Letters of Administration.

27.02.2020

Speaking (or) Non Speaking Order
Index : Yes/ No
Internet : Yes
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SENTHILKUMAR RAMAMOORTHY, J.

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