

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(TESTAMENTARY AND INTESTATE JURISDICTION)

FRIDAY, THE 04TH DAY OF DECEMBER 2020

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

O.P.No. 725 of 2019

In the matter of Indian
Succession Act XXXIX of 1925
and
In the matter of the Last Will and
Testament of Mrs.R.Lalitha
(Deceased)

Miss.G.ANUSHA
D/o.Ganesan,
New No.5,
Srinivasa Pillai Street,
West Mambalam,
Chennai-600033.

..Petitioner

-Vs-

1. VASANTHA
W/o.Ganesan,
New No.5,
Srinivasa Pillai Street,
West Mambalam,
Chennai-600033.

2. G.GANESAN * (SINCE DECEASED)

S/o.Gopala Iyer,
New No.5,
Srinivasa Pillai Street,
West Mambalam,
Chennai-600033.

*** 3. MR.G.ARAVIND (AGED 40 YEARS)**

**S/o.Late Ganesan,
Residing at 1852 W, 137th Drive,
Broomfield, Co-80023**

*** having permanent residence at
New No.5, Srinivasa Pillar Street,
West Mambalam, Chennai-33.**

*** 3rd respondent bought on record as
LR of 2nd respondent,
as per order dt 7/1/2020
in A.No.37 of 2020**

..Respondents

Original Petition praying that this Hon'ble Court be pleased to allow the petitioner to prove the Will and testament of the deceased Mrs.T.R.Lalitha in common form and that probate thereof to have effect throughout the State of Tamilnadu.

This Original Petition coming on this day before this court for hearing the court made the following order:

This petition has been filed under Sections 222 and 276 of the Indian Succession Act, 1925 read with Order XXV, Rule 4 of O.S. Rules, for the grant of Probate in respect of the last Will and Testament of the deceased T.R.Lalitha.

2. The case of the petitioner is that the petitioner is the niece of the deceased T.R.Lalitha and the first respondent is the sister-in-law of the deceased and the mother of the petitioner, the second respondent is the

father of the petitioner, expired on 10.11.2019 and his legal heir is brought on record as respondent No.3. The deceased executed her last Will and Testament dated 03.05.2006. The petitioner is the executor named in the Will and in the Will the deceased has bequeathed her property to the second respondent. The husband of the deceased predeceased her and the petitioner and the respondents are the surviving class II legal heirs of the deceased. The amount of assets which is likely to come into the petitioner's hands does not exceed in the aggregate sum of Rs.86,50,000/- and the net amount of the assets, after deducting all items which the petitioner is by law allowed to deduct is of the value of Rs.86,50,000/-. During the pendency of this petition, the second respondent died. The petitioner undertakes to duly administer the property and credits of the deceased T.R.Lalitha and in any way concerning the Will by paying first her debts and then the legacies therein bequeathed so far as the assets will extend and to make a full and true inventory thereof to the Court within six months from the date of grant of Probate to the petitioner and also to render to this Court a true account of the said property and credits within one year from the said date.

3. The petitioner examined herself as P.W.1 and she had narrated the averments made in the petition stating that the petitioner has filed this petition for the grant of probate in her favour in respect of the Last Will and

Testament executed by the Testatrix on 03.05.2006. Ex.P.1 is the copy of the death certificate of the deceased T.R.Lalitha. Ex.P.1 has been filed to prove that the deceased died on 08.05.2019. Ex.P.2 is the original registered Will executed by the deceased Lalitha. The deceased has executed the Will on 03.05.2006. Ex.P.3 is the copy of the death certificate of G.Balasubramaniam, who died on 14.06.1995. Ex.P.4 is the copy of the sale deed dated 26.04.1974. Ex.P.4 Sale Deed has been executed in favour of the deceased T.R.Lalitha. Ex.P.5 is the death certificate of S.Sundaram, one of the attesting witness in the Will, who died on 20.11.2008. Ex.P.6 is the death certificate of G.Ganesan/second respondent, who died on 10.11.2019. Ex.P.7 is the Legal Heirship Certificate dated 09.02.2020 in respect of G.Ganesan/second respondent. Ex.P.8 is the affidavit of assets showing the net value of the estate of the deceased as Rs.86,50,000/-.

4. One of the attestors of the Will dated 03.05.2006 viz., V.Mahesh Kumar was examined as P.W.2. In his evidence, P.W.2 has stated that the testatrix executed her last Will and Testament on 03.05.2006 in his presence and in the presence of one S.Sundaram. At the request of the testatrix, P.W.2 subscribed his signature as second attesting witness along with S.Sundaram, who attested the Will as the first attesting witness

in the presence of the testatrix. While executing the Will, the testatrix was

in a sound and disposing state of mind and in her presence the attesting witnesses subscribed their signature in the Will. Ex.P9 is the affidavit filed by P.W.2 in this regard. The evidence of P.W.2 not only prove execution but also attestation of the Will and there is no other materials to suspect the Will.

5. In view of the above facts, I am of the view that the petitioner has proved the execution and attestation of the Will. Hence, the petitioner is entitled for the issuance of probate in favour of the petitioner.

6. The Original Petition is ordered. Grant probate of the Will in respect of the petitioner.

Sd/.N.S.K.J.

04.12.2020

//Certified to be a true copy//

Dated this the day of 2020.

SU/11.12.2020

COURT OFFICER(O.S.)

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.