



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

TUESDAY, THE 07TH DAY OF SEPTEMBER 2021

THE HON'BLE MR. JUSTICE V.PARTHIBAN

O.P.No. 251 of 2021

In the matter of Indian
Succession Act XXXIX of
1925

and

In the matter of the Last Will
and Testament of Late
K.Ganesan-deceased

1. Mr.MURALIDHARAN
S/o.Ramachandran,
301-302, Mayfair Gardens,
Azad Lane Near Shoppers Stop,
Andheri West, Mumbai,
Maharashtra-400 058

..Petitioner

-Vs-

1. Mrs.M.LAKSHMI
D/o.Late Shri Kunchithapatham,
Block 'Q' - 703,
Bhusham Power and Steel Township,
Thelkoloi P.O, Thelkoloi,
Jharsuguda,
Sambalpur District Odisha -768 201

2.Mr.K.SAMBASIVAM
S/o.Late Shri Kunchithapatham,
407, Cozy Nest,
Amman Mandapam Road,



Srirangam,
Tiruchirappalli-620 006

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3.Mrs.SEETHALAKSHMI VENKATARAMAN
D/o.Late Shri Kunchithapatham,
12/23, Canara Bank Colony,
Gandhi Nagar,
Saligramam,
Chennai-600 093

4.Mrs.RAJEE RAJABHUSHANAM
D/o.Late Shri Kunchithapatham,
Old No.5, New No.10,
Nathella Sampath Chetty Road,
I Cross Ambattur,
Chennai-600 053

5.Mr.SRIDHAR KUNJITAPADAM
S/o.Late Shri Kunchithapatham,
New No.11, Flat No.2, Nu Tech Satyam Villa,
Lakshmi Colony, T.Nagar,
Off North Crescent Road,
Thiyagaraya Nagar,
Chennai-600 017

6. Mr.SRINIVASA SAMBASIVAM
S/o.Shri Sambasivam, 2602,
Pittsford Street,
Sugar Land,
Houston, Texas-77479

7. Mr.SHITHARTH SRIDHAR
S/o.Shri K.Sridhar, 11/2,
Flat No.2, Nu-Tech Satyam Villa,
Lakshmi Colony,
Thiyagaraya Nagar,
Chennai-600 017

..Respondents



Original Petition praying that this Hon'ble Court be pleased to prove the will in common form and that probate thereof to have effect through the Union of India, may be granted to the petitioner.

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 K.Ganesan.

2. The case of the petitioner is that Mr.K.Ganesan resided at House No.907, Sec 31, near Om Sweet Gurugram Haryana and died on 17.03.2020. The petitioner stated that the deceased has executed a Will dated 11.11.2015, at Mumbai. The petitioner is a sole executor appointed under the Will. The wife of the deceased and parents predeceased him and the deceased was not blessed with any children. Therefore, the petitioner and the respondents are the class II legal heirs of the deceased. There is no next of kin or other person interested to be impleaded. The petitioner stated that the deceased bequeathed his properties to be taken as mentioned in the Will.



The deceased possessed of properties within the Union of India including the properties within the jurisdiction of this Court.

3. The deceased executed the Will on 11.11.2015 in the presence of two witnesses whose names appear at the foot thereof.

4. The petitioner stated that no application has been made to any District Court or Courts, delegate or to any other High Court for the probate of any Will of the deceased or letters of Administration with or without the Will attached of his properties and credits.

5. The amount of assets which is likely to come into the petitioner's hands does not exceed in the aggregate sum of Rs.2,44,00,000/- and the net amount of the said assets, after deducting all items which the petitioner is by law allowed to take, is of the value of Rs.2,44,00,000/-. The petitioner undertakes to duly administer the properties and credits of the deceased K.Ganesan and in any way concerning the Will by paying first his debts and then the legacies therein bequeathed so far as the assets will extend and to make a full and true inventory thereof and exhibit the same 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 properties and credits



within one year from the said date.

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6. The petitioner examined himself as P.W.1 and he had narrated the averments made in the petition stating that the petitioner has filed this petition for the grant of probate in his favour in respect of the Last Will and Testament executed by the testator on 11.11.2015 and marked Exs.P1 to P13. Ex.P1 is the original Will dated 11.11.2015 executed by Mr.Ganesan Kunchithapatham (My father's cousin). Ex.P2 is the computer generated death certificate of his father's cousin K.Ganesan, who died on 17.03.2020. Ex.P3 is the photocopy of the death certificate of N.Kaushalya, who died on 22.02.2002. Ex.P4 is the original death certificate of Shrinivasan Kunchithapatham, who died on 28.08.1991. Ex.P5 is the computer generated copy of the death certificate of Jenbaham Kunchithapatham, who died on 27.12.2016. Ex.P6 is the consent affidavit given by the 1st respondent stating that she has no objection in grant of Probate as prayed in the petition. Ex.P7 is the consent affidavit given by the 2nd respondent stating that he has no objection in grant of Probate as prayed in the petition. Ex.P8 is the consent affidavit given by the 3rd respondent stating that she has no objection in grant of Probate as prayed in the petition. Ex.P9 is the consent affidavit given by the 4th respondent stating that she has no objection in grant of Probate as prayed in the petition. Ex.P10 is the consent



affidavit given by the 5th respondent stating that he has no objection in grant of Probate as prayed in the petition. Ex.P11 is the consent affidavit given by the 6th respondent stating that he has no objection in grant of Probate as prayed in the petition. Ex.P12 is the consent affidavit given by the 7th respondent stating that he has no objection in grant of Probate as prayed in the petition. Ex.P13 is the affidavit of assets showing the net value of the estate as Rs.2,44,00,000/-.

7. One of the attestors of the Will dated 11.11.2015, viz., Mr.Jayaraman Venugopalan was examined as P.W.2. In his evidence, he has stated that he knew the Testator Mr.Ganesan Kunchithapatham as he is his cousin. He executed his Last Will and Testament on 11.11.2015 Ex.P1 in his presence and in the presence of Mrs.Saraswathi R. At his request, he subscribed his signature as the first attesting witness along with Mrs.Saraswathi R., who attested the Will Ex.P1 as the second attesting witness in the presence of the Testator. He saw the Testator signing in both the pages of the Will Ex.P1. All of them signed in each other's presence. The Testator was in a sound, disposing state of mind, memory and understanding at the time of execution of Ex.P1 Will. He filed his affidavit in this regard which is marked as Ex.P14.



8. The evidence of P.W.2 has not only to prove the execution but also attestation of the Will and there is no other materials to suspect the Will. The respondents have also filed their consent affidavits.

9. In view of the above facts, this Court is 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 his favour.

10. Accordingly, the Original Petition is ordered. Grant probate of the Will in respect of the petitioner.

Sd/.V.P.N.J.
07.09.2021

//Certified to be a true copy//
Dated this the day of 2021

SU/15.09.2021 COURT OFFICER(O.S.)

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