



O.P.No.781 of 2010

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ABDUL QUDDHOSE, J.

This Petition has been filed seeking for grant of probate in favour of the petitioner.

2. The petitioner is the son and the respondents 1 to 3 are the wife and the daughters of the deceased S.Palani who died on 21.05.2003 leaving behind the Will dated 28.03.2001, under which the petitioner and the respondents are the beneficiaries and the petitioner is the executor. Under the Will, there are two attesting witnesses namely G.Senthil Kumar and M.Kumaravel.

3. Before the learned Master, the petitioner was examined as a witness (PW1) and one of the attesting witnesses namely G.Senthil Kumar was examined as PW2. Through PW1 & PW2, the following documents were marked as Exhibits:

<i>Exhibits</i>	<i>Nature of documents</i>
P1	Original death certificate of the deceased S.Palani who died on 21.05.2003
P2	Original unregistered Will executed by the deceased S.Palani
P3	Original Legal Heirship Certificate dated 22.07.2003 of the deceased S.Palani



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<i>Exhibits</i>	<i>Nature of documents</i>
P4	Affidavit of Assets showing the net value of the properties at Rs.20,00,000/-
P5	Affidavit of G.Senthil Kumar, attesting witness.

4. The attesting witness G.Senthil Kumar in his deposition has deposed that the deceased S.Palani is his neighbour and that only in his presence and in the presence of other attesting witness namely M.Kumaravel, the Will dated 28.03.2001 was executed by the testator. He has also identified the signature of the other attesting witness, M.Kumaravel. In his deposition, he has also deposed that the testator was in a sound and disposing state of mind, memory and understanding and in good health, when he executed the Will dated 28.03.2001.

5. The learned counsel has entered appearance on behalf of the respondents and even though no separate consent affidavits are filed for granting no objection for grant of probate in favour of the petitioner, the learned counsel for the respondents on instructions would submit that the respondents have no objection for grant of probate in favour of the petitioner. No counter has also been filed by the respondents till date, even though O.P. is of the year 2010. Therefore, it can be inferred that the respondents have no objection of grant of probate in



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favour of the petitioner.

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6. One of the attesting witnesses, namely, G.Senthil Kumar has also been examined as PW2 and he has also deposed that only in his presence and in the presence of other attesting witness, M.Kumaravel, the testator S.Palani executed the Will dated 28.03.2001. The attesting witness has also deposed that the testator has executed the Will in a sound and disposing state of mind, memory and understanding and in good health. Under the said Will, the petitioner is the executor and the petitioner and the respondents are the joint beneficiaries.

7. After giving due consideration to the pleadings as well as the evidence available on record, this Court is inclined to grant probate as prayed for. Accordingly, probate is granted in favour of the petitioner and this petition is allowed as prayed for.

8. Accordingly, Registry is directed to grant "Probate" in respect of the said Will in favour of the petitioner. As undertaken by the petitioner in paragraph 12 of the petition, the petitioner shall duly administer the property(ies) and credits



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of the deceased S.Palani in any way concerning his Will by paying first his debts and the legacies therein bequeathed so far as the assets will extend and to make full and true inventory thereof and exhibit the same before this Court within six months from the date of issuance of Probate by the Registry of this Court and also to render before this Court a true and proper account of the said property(ies) and credits within one year from the date of issuance of Probate by the Registry of this Court.

14.12.2021

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