

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

TUESDAY, THE 23RD DAY OF FEBRUARY 2021

THE HON'BLE MR. JUSTICE R.PONGIAPPAN

O.P.No.529 of 2019

In the matter of the Indian Succession
Act XXXIX of 1935 and
In the matter of the Last Will and
Testament of Smt.Raj Agnihotri –
deceased.

1. Mr.SANDEEP AGNIHOTRI
S/o.Lt.Surendra Swarup Agnihotri,
Residing at B6C,
Regal Palm Gardens, 383,
Velachery Tambaram Road,
Velachery, Chennai-600042. ..Petitioner

-Vs-

1. NIRUPAM HIEMATH
W/o.Sanjev Hiremath,
Residing at 801,
Meghdoot-B, Lokhandwala Back Raod,
Andheri (W),
Mumbai-400053

2. POONAM SHARMA
W/o.Harish Sharma,
Residing at Area No.8,
Building No.7, Flat No.11,
Ibn Salaam Street, Shaab, Kuwait.

3. ANUPAM NASTA

W/o.Vinod Nasta,
Residing at Unit 12,
4 Scott Street, South Perth,
WA 6151, Australia

4.Mr.VINOD NASTA

Residing at Unit 12,
4 Scott Street,
South Perth, WA 6151,
Australia.

..Respondents

Original Petition praying that this Hon'ble Court be pleased that he be permitted to prove the Will in common form and that a Probate thereof, having effect throughout the Union of India may be granted to him.

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 Raj Agnihotri.

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2. The case of the petitioner is that the petitioner is the son of the deceased and the respondents 1 to 3 are the sisters of the petitioner. The fourth respondent is the executor named in the Will of Mrs.Raj Agnihotri. The deceased Raj Agnihotri died intestate on

Velachery Tambaram Road, Velachery, Chennai - 600042. The deceased executed her last Will and Testament dated 15.09.1999. The petitioner is one of the executor named in the Will. The other Executor appointed under the Will is the 4th respondent. The only legal heirs of the deceased are the son and daughters who are the petitioner and respondents 1 to 3 herein. The petitioner has impleaded all the next of kin or other persons interested in the estate of the Late Mrs.Raj Agnihotri as the respondents. There is no next of kin or other interested persons who are required to be impleaded. The deceased Mrs.Raj Agnihotri is the wife of Late Mrs.Surendra Agnihotri. The amount of assets which is likely to come into the petitioner's hands does not exceed in the aggregate sum of Rs.29,00,55,560/- 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.29,00,55,560/-. The petitioner undertakes to duly administer the property and credits of the deceased Raj Agnihotri 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 was examined as P.W.1 and he had narrated the averments made in the petition stating that he has filed his proof affidavit stating the facts of this case and the same may be treated as part and parcel of his examination-in-chief. In continuation of his proof affidavit, the following documents were marked as exhibits on his side. ExP1 is the original death certificate of his mother Mrs.Raj Agnihotri, who died on 06.11.2004. ExP2 is the original last Will and Testament dated 15.09.1999 executed by his mother Mrs. Raj Agnihotri. ExP3 is the photocopy of the Deed of Family Arrangement dated 19.11.2005. Ex P4 is the photocopy of the Deed of Conveyance dated 19.11.2005 pertaining to property of Lt. Raj Agnihotri. Ex. P5 to Ex.P7 are the No objection certificates given by the respondents 1 to 3 stating that they have no objection in grant of Probate as prayed for. Ex.P8 is the affidavit of assets showing the net value of the estate as Rs.29,00,55,560/- सत्यमेव जयते

4. On the side of the petitioner, one Mrs.Ameeta Agnihotri was examined as P.W.2. In her evidence, she has stated that she is the wife of the petitioner herein. The deceased Mrs.Raj Agnihotri is her mother-in-law. She was familiar and acquainted with her signature. She have seen her signature during her life time. She has identified the signature found in the

Mrs.Raj Agnihotri. Ex.P9 is her affidavit.

5. On an earlier occasion, the respondents have not appeared before this Court. Hence, Registry was directed to print the name of the respondents in the cause list. Despite the names of the respondents printed in the cause list, none appeared on behalf of the respondents. Therefore, in view of the same, respondents no.1 to 4 are set exparte. However, respondents no.1 to 3 had given No Objection Certificates for allowing this petition.

6. Hence, 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.

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

Sd/.R.P.A.J.
23.02.2021

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

SU/22.03.2021

COURT OFFICER(O.S.)