



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

MONDAY, THE 01ST DAY OF NOVEMBER 2021

THE HON'BLE MR. JUSTICE V.PARTHIBAN

O.P.No.455 of 2021

In the matter of Indian Succession
Act, XXXIX of 1925
And
In the matter of the Last Will and
Testament of Late Smt.Sundari
Sethuraman -Deceased

USHA HARI
W/o.Hari Sarvothaman,
No.51, #7A, Jasmine Block,
Tivoli Gardens, Arunachalam Road,
Saligramam,
Chennai-600 093

..Petitioners

-Vs-

VISALAM ANANDAKUMAR
W/o.Anandakumar,
Flat No.A-G Meera Apartment,
No.1, Vidyodaya 1st Main Road,
T.Nagar, Chennai-600 017

..Respondents

Original Petition praying that this Hon'ble Court be pleased that the
petitioner may be allowed to prove the Will dated 06.01.2015 executed by
late Sundari Sethuraman in common form and that the probate thereof to
have effect limited to the State of Tamil Nadu, may be granted to her.



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 Mrs.Sundari Sethuraman.

2. The case of the petitioner is that Mrs.Sundari Sethuraman resided at Flat No.3, First Floor, No.2A (New No.7/3) “Sri Krishna Apartments”, Warren Road, Mylapore, Chennai-600 004 and died on 26.05.2020. The husband of the deceased predeceased her. Both the deceased have no issues from the wedlock. The parents of both the deceased also predeceased them. The petitioner was brought up by the deceased from her childhood. Therefore she is the legal heir of the deceased. The respondent is the sister of the deceased. The deceased executed a Will dated 06.01.2015, in the presence of the witnesses whose names appear at the foot thereof. The petitioner was appointed as executor of the Will. The said Will was registered as Doc.No.2/2015 dated 06.01.2015, on the file of the SRO at Mylapore, Chennai. At the time of her death, the deceased resided in the above mentioned address which is within the jurisdiction of this Court.



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3. The deceased testatrix executed her last Will and Testament dated 06.01.2015. The deceased bequeathed her property morefully described in the affidavit of assets and authorised her to administer the said properties. After the death of the Testatrix Mrs.Sundari Sethuraman, there is no rival claim with respect of the Schedule Mentioned property, either from the Respondent or from any other persons.

4. The amount of assets which is likely to come into the petitioner's hands does not exceed in the aggregate sum of Rs.1,20,00,000/- and the net amount of the assets, after deducting all items which the petitioner is by law allowed to be deducted is only of the value of Rs.1,20,00,000/-. The petitioner undertakes to duly administer the properties and credits of the deceased Mrs.Sundari Sethuraman 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 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.



5. 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 06.01.2015 and marked **Exs.P1 to Exs.P8**. Ex.P1 is the photocopy of the Sale Deed dated 02.11.1979 executed in favour of Mr.T.D.Sethuraman and Mrs.Sundari Sethuraman. Ex.P2 is the computer generated death certificate of T.D.Sethuraman, who died on 02.02.2009. Ex.P3 is the original Will dated 06.01.2015 executed by Mrs.Sundari Sethuraman, which has been attested by two attesting witnesses namely 1.Mrs.Saraswathi Murali and 2.Mr.S.Gurumurthy. Ex.P4 is the computer generated death certificate of Sundari Sethuraman, who died on 26.05.2020. Ex.P5 is the online Guideline Value and Property Valuation Report as on 16.03.2021. Ex.P6 is the affidavit of assets showing the net value of the estate as Rs.1,20,00,000/-. Ex.P7 is the consent affidavit given by the respondent. Ex.P8 is the photocopy of the Sale Agreement dated 24.10.1979 entered into between Mr.M.K.Narayanamoorthy, and Mr.T.D.Sethuraman and another.

6. One of the attestors of the Will dated 06.01.2015 viz., Mr.S.Gurumurthy was examined as P.W.2. In his evidence, he has stated that Mrs.Sundari Sethuraman purchased a flat through M/s.Sumanth & Co.



in which he was the Managing Director. As such, he is well acquainted with her. She executed this Ex.P3 Will on 06.01.2015 in his presence and in the presence of Mrs.Saraswathi Murali. At her request, he subscribed his signature as the second attesting witness along with Mrs.Saraswathi Murali, who attested the Will Ex.P3 as the first attesting witness in the presence of Mrs.Sundari Sethuraman. He saw Mrs.Sundari Sethuraman subscribing her signature in each page of Ex.P3 Will. All of them signed in each other's presence. She was in a sound and disposing estate of mind, memory and understanding at the time of execution of Ex.P3 Will. He was also one of the identifying witnesses to the Will Ex.P3 at the time of registration of the Will Ex.P3 before the SRO, Mylapore. He has filed his affidavit in this regard. Ex.P9 is his affidavit.

7. 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 respondent has also filed her consent affidavit.

8. 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 her favour.



9. Accordingly, the Original Petition is ordered. Grant probate of the

Will in respect of the petitioner.

Sd/.V.P.N.J.
01.11.2021

//Certified to be a true copy//

Dated this the day of 2021.

SU/22.11.2021

COURT OFFICER(O.S.)

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