

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

MONDAY, THE 26TH DAY OF APRIL 2021

THE HON'BLE MR. JUSTICE T.RAVINDRAN

O.P.No.413 of 2019

In the matter of Indian Succession
Act XXXIX 1925

and

In the matter of the Last Will and
Testament of P.S.Narayanan
(Deceased) dated 21.01.2016

RADHIKA PRASANNA,
W/o.Prasanna Sai Venkateswaran,
Residing at No.5A, Anna Main Road,
Kodambakkam, Chennai-600024. ..Petitioner

-Vs-

1. K.SANKARASUBRAMANIAN
S/o.P.S.Krishnamurti,
Residing at :No.99/1, Nehru Street,
Alwarthirunagar,
Chennai-600087.

2. K.PRASANNA SAI VENKATESWARAN
S/o.P.S.Krishnamurti,
Residing at.No.5A, Anna Main Road,
Kodambakkam, Chennai-600024.

3. SARASWATHI BASKAR
D/o.P.S.Krishnamurti
Residing at 19, Ardeen Close,

Burwood, Victoria 3125,
Australia.

4. GOMATHI SUBRAMANYAM * (died)

D/o.P.S.Subramaniya Iyer,
Residing at 104, Staff Quarters,
Indian Institute of Management,
Bannerghetta Road,
Bengaluru-560076.

5. S.RAGHUNATH

S/o.Gomathi Subramanyam,
Residing at 104, Staff Quarters Indian Institute of Management
Bannerghetta Road, Bengaluru-560076.

6. M.V.S.MANI,

S/o.Balameenakshi,
Residing at Flat No.4,
Unnati Apartments,
New No.36, R.K.Nagar Main Road,
Thiruvanniyur,
Chennai-600041.

*** R4 -died**

*** R5- sole legal heir. Recorded Vide Order dated 29.01.2021**

..Respondents

Original Petition praying that this Hon'ble Court be pleased to allow the petitioner to prove the Will in common form, and that probate thereof, may be granted to her, 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:

The original petition has been laid for the grant of Probate under sections 222 and 276 of the Indian Succession Act 1925 read with Order XXV Rule 4 of O.S.Rules.

2. According to the petitioner, he is seeking for the Probate of Will of P.S.Narayanan who died on 04.12.2018 and it is putforth that the deceased P.S.Narayanan had executed a Will on 21.01.2016 appointing the petitioner as the executor and the Respondents 1 and 2 as the beneficiaries of the abovesaid Will. The deceased P.S.Narayanan had no children and the wife of the deceased namely Abirami, had predeceased him on 06.02.2009. The Will dated 21.01.2016 is the last Will and testament of the deceased P.S.Narayanan and the same had been executed in the presence of the witnesses as set out in the Will. The petitioner has set out the genealogy of the deceased P.S.Narayanan, through his father P.S.Subramaniya Iyer and it is further stated that all the parties necessary for the Probate had been arrayed as the respondents in the O.P. It is further stated that by way of the Will, the deceased *inter alia*, bequeathed the bank accounts and the property described in the schedule and according to the petitioner, the deceased entered into an agreement with M/s.Rajalakshmi Ravikrishnan, Ms.Uma, Rama & Company and Ravi & Company in 1989 to construct on his own as per the scheme and the memorandum of agreement had been enclosed and

further stated that the deceased has purchased 276 UDS out of 3506 UDS through two registered sale deeds on 22.06.1992 and the construction was completed in the year 1992 and it is stated that the total value of immovable property is Rs.21,47,112.4/-. According to the petitioner with the help of the beneficiaries he had obtained amounts from the bank accounts left by the deceased except from post office NSS who had insisted an order from the Court. The total value of the assets which come into the hands of the petitioner by way of Will is Rs.33,39,390.4/- . The petitioner has impleaded all the next of kin and other persons interested as party respondents. It is further stated that the petitioner has not preferred any application for the grant of Probate of Will left by the deceased in any other court and the petitioner undertakes to duly administer the property and credits of the deceased and make a full and true inventory thereof and exhibit the same in the Court within six months from the date of the grant of Probate to the petitioner and also to render the true accounts of the property and credits within one year from the said date. Thus according to the petitioner he has been necessitated to file the original petition for the Probate of Will left by the deceased P.S.Narayanan.

3. After the completion of necessary formalities, the matter had been

referred to the Master for the recording the evidence and in support of the

petitioner case, P.Ws.1 and 2 were examined. P.W.1 is the petitioner and through her, Exs.P1 to P28 had been marked. Ex.P1 is the Aadhaar card of the petitioner. Ex.P2 is the death certificate of the deceased P.S.Narayanan who died on 04.12.2018. ExP3 is the original Will executed by the deceased P.S.Narayanan on 21.01.2016. Ex.P4 is the death certificate of N.Abirami, wife of the deceased P.S.Narayanan who died on 06.02.2009. Ex.P5 is the family card copy of the deceased P.S.Narayanan. Ex.P6 is the legal heirship certificate of the deceased P.S.Subramanya Iyer. Ex.P7 is the copy of the death certificate of P.S.Krishnamurti and P.S.Ganesan. Ex.P8 is the copy of the family tree in respect of the deceased P.S.Narayanan. Ex.P.9 is the copy of the table setting out the family members of P.S.Narayanan. Ex.P.10 is the copy of memorandum of agreement dated 07.10.1989. Ex.P.12 is the copy of memorandum of agreement dated 09.10.1989. Ex.P13 is the copy of memorandum dated 10.10.1989. Ex.P14 is the copy of the sale deed dated 22.06.1992. P15 is the copy of the sale deed dated 22.06.1992. Exs. P16 to P19 are the copies of the communications dated 04.07.1992 of the deceased P.S.Narayanan regarding the completion and cost of construction. Ex.P.20 is the outline extract dated 07.03.2012 *qua* the value of the immovable property. Ex.P21 is the copy of passbook of post office in NSS held by the deceased P.S.Narayanan. Exs.P22 to 24 and Exs.P26 and 27 are the consent affidavits of the respondents 1 to 3 and 5

and 6. Ex.P.25 is the E-mail sent by the 5th respondent dated 22.01.2021. Ex.P28 is the affidavit of assets showing the net value of the estate as Rs.33,19,390.4/-.

4. The petitioner has examined the attesor Alamelu Ananthanarayanan as P.W.2. Alamelu Ananthanaryanan has stated that Ex.P3 is the last Will executed by the deceased P.S.Narayanan in her presence and in the presence of the other attesor S.Sumathi and stated that they had witnessed the testator signing all pages of the Will and that they had attested the Will in the presence of the testator and the testator was in a sound and disposing state of mind and memory and understanding at the time of execution of the Ex.P3 Will. Ex.P.30 is the affidavit of P.W.2.

5. Considering the evidence of P.Ws.1 and 2 in *toto* and the documents marked as Exs.P1 to P30, it is found that the petitioner has made out the case for the grant of Probate *qua* the Will left by the deceased P.S.Narayanan marked as Ex.P3. The petitioner through the evidence of P.W.2, the attesor has established the truth and validity of Ex.P3 Will in accordance with law. It is thus found that the petitioner is entitled for the grant of Probate *qua* the Will left by the deceased P.S.Narayanan marked as

Ex.P3. For the aforesaid reasons, there is no impediment for the grant of

Probate in favour of the petitioner as claimed.

6. In conclusion, grant the Probate in favour of the petitioner as prayed for *qua* the Will dated 21.01.2016 marked as Ex.P3 left by the deceased P.S.Narayanan and the petitioner is directed to file the necessary inventory and statement of accounts as undertaken by him in the petition *qua* the assets comprised in the Will. Accordingly the Original Petition stands allowed.

Sd/.T.R.N.J.
26.04.2021

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

SU/30.4.2021

COURT OFFICER(O.S.)

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

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