

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

FRIDAY, THE 12TH DAY OF MARCH 2021

THE HON'BLE MR. JUSTICE R.PONGIAPPAN

O.P.No.420 of 2020

In the matter of the Indian Succession
Act XXXIX of 1925

and

In the matter of the Last Will and
Testament dated 24.04.1996 of Late
Dr.B.Ramakrishna Shetty(Deceased)

Mrs.ELA R.SHETTY
W/o Late Dr.B.Ramakrishna Shetty,
No.5/32, Blue Beach Lane,
Neelangarai, Chennai – 600041

..Petitioner

-Vs-

Mr.RAMAKRISHNA AMAR SHETTY
S/o Dr.B.Ramakrishna Shetty,
No.5/32, Blue Beach Lane,
Neelangarai, Chennai – 600041

..Respondent

Original Petition praying that this Hon'ble Court be pleased that she

may be allowed to prove the will in common form and that Probate thereof

having effect limited to the State of Tamil Nadu may be granted to the

petitioner, Mrs.Ela R.Shetty , Executor of the Will dated 24.04.1996 of the

said deceased Shri Dr.B.Ramakrishna Shetty.

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 Dr.B. Ramakrishna Shetty.

2. The case of the petitioner is that the Testator Dr.B. Ramakrishna Shetty executed a Will on 24.04.1996 in favour of the Petitioner / wife with life interest till the end of her natural life, enjoying all the income accruing from the immovable property and thereafter to the Respondent. The deceased died on 14.02.2019 leaving behind the Petitioner and the Respondent. There are no other next of kin or other persons to be impleaded. The Petitioner is the Executor of the will. The deceased ordinarily resided at Neelangari, Chennai 600041 and possessed the property within the jurisdiction of this Court. The writing annexed and marked 'A' is the last Will and Testament of the deceased Dr.B. Ramakrishna Shetty duly executed by him on 24.04.1996 in the presence of the witnesses.

3. The Testator executed his last Will and Testament dated 24.04.1996, thereby bequeathing the movable and immovable properties in favour of the Petitioner as a life estate till the end of her natural life and thereafter his son, the Respondent herein. The petitioner is the executrix named in the Will and in the Will the deceased has bequeathed his properties morefully described in the Schedule. There is no rival claim with respect of the Schedule Mentioned properties, either from the Respondent or from any other persons

4. The amount of assets which is likely to come to the petitioner's hand does not exceed in the aggregate sum of Rs.57,91,707.18 and the net amount of the said assets after deducting all the items, which the petitioner is by law allowed to deduct is only of the value of Rs.57,66,707.18. The petitioner hereby undertakes to duly administer the specified property and credits of the deceased in any way concerning her Will by paying the debts first and then the legacies therein bequeathed so far as the assets will extend and to make full and true inventory thereof and exhibits the same in this Court within the six months from the date of the grant of a Letters of Administration with the Last Will annexed to the petition and also to render to this Court a true account of the said property within one year from the

5. The Petitioner /wife of the deceased was examined as P.W.1, and Ex.P.1 to Ex.P.11 were marked through her.

6. P.W.1 in her evidence had narrated the averments made in the petition stating that the 1st petitioner has filed this petition for grant of Letters of Administration in her favour in respect of the Last Will and Testament executed by the deceased Dr.B. Ramakrishna Shetty executed on 24.04.1996. The said Will is marked as Ex.P.1. Ex.P.2 is the computer generated death certificate of Dr.B. Ramakrishna Shetty, who died on 14.02.2019. Ex.P.3 is the photocopy of the Legal Heir ship Certificate dated 04.02.2020 in respect of Dr.B. Ramakrishna Shetty. Ex.P.10 is the affidavit of assets showing the net value of the estate as Rs.57,66,707.19. Ex.P.11 is the consent affidavit given by the Respondent/son who has no objection to grant Probate in respect of the Petitioner herein.

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7. One of the attestors of the Will viz., Mr.S. Ram was examined as P.W.2. In his evidence, P.W.2 has stated that the testator executed his last Will and Testament on 24.04.1996 in his presence and in the presence of Mrs.Nalinikumar R.Savani. At the request of the testator, P.W.2

subscribed his signature as first attesting witness along with

Mrs.Nalinikumar R.Savani, who attested the Will as the second attesting witness in the presence of the testator. While executing the Will, the testator was in a sound and disposing state of mind and in his presence the attesting witnesses subscribed their signature in the Will. Ex.P12 is the affidavit filed by P.W.2 in this regard. The evidence of P.W.2 not only prove execution but also attestation of the Will and there is no other materials to suspect the Will.

8. 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 her favour.

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

Sd/.R.P.A.J.

12.03.2021

//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.