



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

THURSDAY, THE 26TH DAY OF AUGUST 2021

THE HON'BLE MR. JUSTICE V.PARTHIBAN

O.P.No.990 of 2019

In the matter of Indian
Succession Act XXXIX of
1925

and

In the matter of
Last Will and Testament
of Mrs.Christy Nallathambi-
deceased

1. Y.MAHIBA KUMARI
W/O.SOLOMON RAJASINGH,
NO.416, NSK NAGAR,
22ND STREET,
ARUMBAKKAM,
CHENNAI-600 106

..Petitioner

-Vs-

1. ALEXANDER GUNA SINGH,
S/O.NALLATHAMBI NADAR,
NO.416, NSK NAGAR,
22ND STREET, ARUMBAKKAM,
CHENNAI-600 106

2. SOLOMON RAJA SINGH
S/O.NALLATHAMBI NADAR,
NO.416, NSK NAGAR,



22ND STREET,
ARUMBAKKAM,
CHENNAI-600 106

3. RECHAL JAYAMARY
W/O.AUGUSTIN SURESH BABU,
NO.23, BANU NAGAR,
4TH AVENUE,
AMBATTUR,
CHENNAI-600 053

4. SANTHA KUMAR
S/O.YAHAPPAN,
10, THANIKACHALAM NAGAR,
F, BLOCK, 9TH STREET,
PONIAMMAN MEDU,
CHENNAI-600 110

5. EVANGELIN (MINOR)
REP. BY HER ADOPTED FATHER AND TESTAMENTARY
GUARDIAN MR.SANTHA KUMAR,
10, THANIKACHALAM NAGAR,
F BLOCK, 9TH STREET,
PONIAMMAN MEDU,
CHENNAI-600 110

..Respondents

Original Petition praying that this Hon'ble Court be pleased that this Honourable Court may permit the petitioner to prove the Will dated 26.03.2016 in common form and that probate thereof limited to the State of Tamil Nadu may be granted to the petitioner.

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, 255 and 276 of the



Original Side Rules of this Court, for grant of probate in respect of the Will, dated 26.03.2016 executed by the deceased Christy Nallathambi, by proving the Will in common form in respect of the property mentioned in the Will.

2. The said Christy Nallathambi died in Chennai on 08.05.2017 at Door No.416, N.S.K. Nagar, 22nd Street, Arumbakkam, Chennai - 600 106, wherein she was permanently residing and possessed property in the State of Tamil Nadu within the jurisdiction of this Court. The deceased died leaving behind the following surviving legal heirs, who are the respondents herein:

- (i) her son Alexander Gunasingh,
- (ii) her son Solomon Raja Singh,
- (iii) her daughter Rechael Jeba Marry,
- (iv) Santha Kumar, husband of his deceased wife Ramani Layal, and
- (i) Evangelin (Minor), daughter of the petitioner and the second respondent.

3. The deceased Christy Nallathambi, at the time of her death, left the property at Door No.416, N.S.K. Nagar, 22nd Street, Arumbakkam, Chennai - 600 106, which is within the jurisdiction of this



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4. The last Will and testament of the deceased Christy Nallathambi was duly executed by her at Chennai on 26.03.2016 in the presence of the witnesses, namely, A.Ravi and R.Saravanan, whose names appear at the foot of the Will.

5. The petitioner is the only executor of the Will, namely Y.Mahiba Kumari.

6. The deceased bequeathed her property absolutely to the her son Alexander Gunasingh, her son Solomon Raja Singh, her daughter Rechael Jeba Marry, her daughter's husband Santha Kumar, and her granddaughter Minor Evangelin, daughter of the petitioner and the second respondent.

7. The amount of the assets that are likely to come into the petitioner's hands, does not exceed in the aggregate a sum of Rs.24,89,150/- 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.24,69,150/-.



8. In this Original Petition, the petitioner has undertaken to duly administer the property and credits to the deceased Christy Nallathambi, in any way concerning her Will, by paying first his debts and the legacies therein bequeathed insofar as the assets will extend and to make a full and true inventory thereof and exhibit the same before this Court within six months from the date of the grant of probate to the petitioner and also to render to this Court a true and proper accounts of the said property and credits within one year from the said date.

9. The petitioner has impleaded the testator's legal heirs, namely her son Alexander Gunasingh, her son Solomon Raja Singh, her daughter Rechael Jeba Marry, her daughter's husband Santha Kumar, and her granddaughter Minor Evangelin, daughter of the petitioner and the second respondent, as the next of kin and other persons interested as party/respondents. There is no next of kin or other person, interested to be impleaded.

10. No application had been made to any District Court or delegate or to any other High Court for the probate of any Will of the said deceased or Letters of Administration with or without the Will annexed of his property and credits.



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11. The petitioner was examined as P.W.1 and she had narrated the averments made in the petition stating that she has filed this petition for the grant of probate in favour of the petitioner in respect of the Will executed by the testator Christy Nallathambi. The said deceased died on 08.05.2017. Ex.P-1 is the computer generated Death Certificate of S.Nallathambi Nadar, who died on 26.02.2012. Ex.P-2 is the computer generated Death Certificate of N.Ramanilayal, who died on 17.12.2012. Ex.P-3 is the Original Legal Heirship Certificate dated 15.07.2013 in respect of Ramanilayal. Ex.P-4 is the photocopy of the Police Complaint dated 08.07.2015 lodged by the Testatrix (The original complaint was submitted in K3 Police Station). Ex.P-5 is the photocopy of the reply dated 08.07.2015 given by the respondents 1 to 3 (The original reply was in the custody of K3 Police Station). Ex.P-6 is the original unregistered Will and Testament, dated 26.03.2016 executed by Christy Nallathambi, which has been attested by two attesting witnesses, namely 1.Mr.A.Ravi and 2.Mr.R.Saravanan. Ex.P-7 is the computed generated Death Certificate of C.H.Nalla Thambi, who died on 08.05.2017. Ex.P-8 is the downloaded copy of the Encumbrance Certificate dated 19.02.2019. Ex.P-9 is the affidavit of assets showing the net value of the estate as Rs.24,69,150/-. P.W.1 has



seeking the same relief as prayed for in the present Original Petition.

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12. Heard the learned counsel for the petitioner. It is stated by the learned counsel for the respondents 4 and 5 that the respondents 4 and 5 have no objection for grant of probate in favour of the petitioner in respect of the Will executed by the deceased and that the fourth respondent has also filed his respective consent affidavit.

13. The attesting witnesses to the Will, namely R.Saravanan, has filed an affidavit dated 17.06.2019 stating that he was present together with the first attesting witness, namely A.Ravi and the deceased at Arumbakkam property (mentioned above), that the deceased set and subscribed her name at the foot of the testamentary papers on English language, that both the above said attesting witnesses have subscribed their respective names and signatures at the foot of the testamentary papers as witnesses thereto, that the name and signature subscribed at the foot of the testamentary paper as of the party executing the same, is in the proper handwriting of the testator and that the name, signature and additions made in the Will also subscribed and written at the foot of the Will as of the parties attesting the execution of the same are in the proper and respective handwritings of the deceased-testator Christy Nallathambi, A.Ravi and



R.Saravanan. It is further stated by the attesting witness-R.Saravanan in his said affidavit that the deceased subscribed her name and signature to the said Will as aforesaid in a sound and disposing state of mind, memory and understanding to the best of the belief of the said R.Saravanan and published the same of his free Will and pleasure. The signatures in the Will and in the present Petition are that of the R.Saravanan, as sworn to her in the said affidavit dated 17.06.2019.

14. From the averments made in the petition and the deposition of P.W.1 supported by documents Ex.P-1 to P-9, coupled with the above said affidavit of the attesting witnesses, and also taking into consideration the fact that the deceased has executed the Will while she was in a sound and disposing state of mind, and also taking into account that the respondents 4 and 5 have no objection in granting probate in favour of the petitioner which is evident from the consent affidavit of the fourth respondent, it is clear that the petitioner has proved her claim and that the Will had been proved more particularly in common form and there is no contra evidence. Hence, this Court is satisfied that the petitioner is entitled to the relief sought for in this Original Petition.



15. In fine, this Original Petition is ordered as prayed for.

Registry is directed to grant "Probate" in respect of the said Will in favour of the petitioner. As undertaken by the petitioner in paragraph 15 of the petition, the petitioner shall duly administer the property and credits to the deceased Christy Nallathambi in any way concerning her Will by paying first her debts and the legacies therein bequeathed in 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 and credits within one year from the date of issuance of Probate by the Registry of this Court.

Sd/.V.P.N.J.
26.08.2021

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

SU/07.09.2021

COURT OFFICER(O.S.)

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