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

MONDAY, THE 25TH DAY OF OCTOBER 2021

THE HON'BLE MR. JUSTICE V.PARTHIBAN

O.P.No.729 of 2019

In the matter of Indian Succession,
Act XXXIX of 1925
and
In the matter of the Last Will and
Testament of S.Krishnammal,
W/o.Late S.S.Subramaniam(deceased)

S.UMA,
W/o.S.Shankar,

Presently residing at
No.10-A, Bharatheeswarar Colony,
Second Street, Kodambakkam,
Chennai-600024.

..Petitioner

-Vs-

1. S.LAKSHMI
W/o.M.Subramaniam

2 S.KAMALA
W/o.Late K.Rajaram

3. GANDHIMATHI
W/o.P.Subramaniam

4. S.SHANKAR
S/o.S.S.Subramaniam

5. S.RAMIEE
S/o.S.S.Subramaniam



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presently respondents 1 to 5
residing at 10-A,
Bharatheeswarar Colony, Second Street,
Kodambakkam, Chennai-600024.

6. K.SRINIVASAN
H/o.Late R.Subbulakshmi
50/10, Second East Cross Street,
South Baala Bhagya Nagar,
Tirunelveli-627001

7. S.RAJESHWARAN
S/o.K.Srinivasan
50/10, Second East Cross Street,
South Baala Bhagya Nagar,
Tirunelveli-627001

..Respondents

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 to have effect throughout the State of Tamil Nadu to the State of Tamil Nadu 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

Mrs. S. Krishnammal.



2. The case of the petitioner is that Mrs.S.Krishnammal resided at 10-A, Bharatheeswarar Colony, Second Street, Kodambakkam, Chennai 600 024 and died on 25.03.2018. The petitioner is the daughter-in-law of the deceased. The respondents are the other family members of the deceased. The husband of the deceased predeceased her. The petitioner and the respondents are the class-I legal heirs of the deceased Mrs.S.Krishnammal. The deceased executed a Will dated 10.03.2017, in the presence of the witnesses whose names appear at the foot thereof. The petitioner was appointed as executor of the Will. At the time of her death, the deceased resided in the above mentioned address which is within the jurisdiction of this Court.

3. The deceased testatrix executed her last Will and Testament dated 10.03.2017. The deceased bequeathed her properties morefully described in the affidavit of assets and authorised them to administer the said properties. After the death of the Testatrix Mrs.S.Krishnammal, there is no rival claim with respect of the Schedule Mentioned properties, either from the Respondents 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.49,81,200/- 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.49,61,200/-. The petitioner



undertakes to duly administer the properties and credits of the deceased Mrs.S.Krishnammal 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 10.03.2017 and marked **Exs.P1 to Exs.P13**. Ex.P1 is the photocopy of the Sale Deed dated 25.06.1986 in favour of S.Krishnammal, registered as Doc.No.2318 of 1986 at SRO, Kodambakkam. Ex.P2 is the computer generated death certificate of S.Subbulakshmi, who died on 13.06.2008. Ex.P3 is the original Will dated 10.03.2017 executed by Mrs.S.Krishnammal. Ex.P4 is the computer generated death certificate of S.Krishnammal, who died on 25.03.2018. Ex.P5 is the computer generated Legal Heirship certificate dated 10.10.2018 in respect of S.Krishnammal. Ex.P6 is the affidavit of assets showing the net value of the estate as Rs.49,81,200/-. Ex.P7 is the consent affidavit given by

the 1st respondent herein stating that she has no objection in grant of



Probate as prayed in the petition. Ex.P8 is the consent affidavit given by the 2nd respondent herein stating that she has no objection in grant of Probate as prayed in the petition. Ex.P9 is the consent affidavit given by the 3rd respondent herein stating that she has no objection in grant of Probate as prayed in the petition. Ex.P10 is the consent affidavit given by the 4th respondent herein stating that he has no objection in grant of Probate as prayed in the petition. Ex.P11 is the consent affidavit given by the 5th respondent herein stating that he has no objection in grant of Probate as prayed in the petition. Ex.P12 is the consent affidavit given by the 6th respondent herein stating that he has no objection in grant of Probate as prayed in the petition. Ex.P13 is the consent affidavit given by the 7th respondent herein stating that he has no objection in grant of Probate as prayed in the petition.

6. One of the attestors of the Will dated 10.03.2017 viz., Mr.K.Venkatesh was examined as P.W.2. In his evidence, he has stated that he knew Mrs.S.Krishnammal. Mrs.S.Krishnammal is his sister's mother-in-law. She executed her last Will and Testament Ex.P3 on 10.03.2017 in his presence and in the presence of Mr.S.Prashanth. At her request, he subscribed his signature as the first attesting witness along with of Mr.S.Prashanth, who attested the Will Ex.P3 as the second attesting witness

in the presence of Mrs.S.Krishnammal. He saw Mrs.S.Krishnammal affixing



her left thumb impression at the foot of every page of Ex.P3 Will. She was in a sound and disposing state of mind, memory and understanding at the time of execution of Ex.P3 Will. He filed his affidavit in this regard which is marked as Ex.P14.

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 respondents have also filed their consent affidavits.

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.
25.10.2021

//Certified to be a true copy//

Dated this the day of 2021.

SU/23.11.2021

COURT OFFICER(O.S.)

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