



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.906 of 2019

In the matter of the Indian Succession,
1925
and
In the matter of Last Will and
Testament dated 14.07.2018 of Late
J.Harishankar Agarwal (Deceased)

ADITYA AGARWAL
S/o.Late Harishankar Agarwal
residing at No.82/145,
Luz Church Road,
Mylapore, Chennai-600004.

..Petitioner

-Vs-

1. INDU AGARWAL
W/o.Late Harishankar Agarwal
residing at No.82/145, Luz Church Road,
Mylapore, Chennai-600004.

2. DIVYA AGARWAL
D/o.Late J.Harishankar,
and W/o.Mr.Sanjay Agarwal,
residing at Flat No.501, No.4-A,
Ashoka Road,
Alipore, Kolkata-700027.

3. DEEPA GANERIWALA
D/o.Late J.Harishankar Agarwal
and Wife of Mr.Rajiv Ganeriwala,
residing at Flat No.16-B, Rowland Road,
Kolkata-700020



4. Mrs.MADHU AGARWAL

W/o.Mr.Aditya Agarwal

residing at No.82/145, Luz Church Road,
Mylapore, Chennai-600004.

5.Mr. HARSHVARDHAN AGARWAL

S/o.Mr.Aditya Agarwal

residing at No.82/145, Luz Church Road,
Mylapore, Chennai-600004.

6. Mr.YASHVARDHAN AGARWAL

S/o.Mr.Aditya Agarwal

residing at No.82/145, Luz Church Road,
Mylapore, Chennai-600004.

7. SANJIV KUMAR SHAH

S/o.Late Dinesh Shah,

Adarsh Apartments,

No.80, Vepery High Road,

Chennai-600 007.

..Respondents

Original Petition praying that this Hon'ble Court be pleased that he may be allowed to prove the Last Will and Testament dated 14/07/2018 of late J.Harishankar Agarwal (deceased) in common form, and that probate thereof, having effect throughout 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



J.Harishankar Agarwal.

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2. The case of the petitioner is that Mr.J.Harishankar Agarwal resided at No.82/145, Luz Church Road, Mylapore, Chennai 600 004 and died on 28.01.2019. The petitioner is the son of the deceased. The respondents are the other family members of the deceased. The parents of the deceased predeceased him. The petitioner and the respondents are the class-I legal heirs of the deceased J.Harishankar Agarwal. The deceased executed a Will dated 14.07.2018, in the presence of two witnesses whose names appear at the foot thereof. The petitioner along with two others viz., Mrs.Indu Agarwal, wife of the deceased and Mr.Sanjiv Shah were appointed as executor of the Will. At the time of his death, the deceased resided in the above mentioned address which is within the jurisdiction of this Court.

3. The deceased testator executed his last Will and Testament dated 14.07.2018, thereby bequeathing Schedules A, B & F to the petitioner, Schedule C & proportionate G properties have been bequeathed to the fourth respondent, Schedule E & proportionate G properties have been bequeathed to the fifth respondent and Schedule D & proportionate G properties have been bequeathed to the 6th respondent. The second and third respondents have been bequeathed Rs.11,00,000/- each, who are the

beneficiaries under the said Will dated 14.07.2018. The deceased



bequeathed his properties morefully described in the affidavit of assets and authorised them to administer the said properties. After the death of the Testator J.Harishankar Agarwal, 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.4,91,52,392.05/-/- 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.4,91,32,392.05/-. The petitioner undertakes to duly administer the properties and credits of the deceased J.Harishankar Agarwal and in any way concerning the Will by paying first his 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 himself as P.W.1 and he had narrated the averments made in the petition stating that the petitioner has filed this petition for the grant of probate in his favour in respect of the Last Will and



Testament executed by the testator on 14.07.2018 and marked Exs.P1 to

P13. Ex.P1 is the original Will dated 14.07.2018 executed by Harishankar Agarwal. Ex.P2 are the original joint consent affidavit of co-executors of Ms.Indu Agarwal and Sanjiv Kumar Shah stating that they have no objection in grant of Probate as prayed in the petition. Ex.P3 is the computer generated death certificate of the deceased Harishankar Agarwal, who died on 28.01.2019. Ex.P4 is the computer generated Legal Heirship certificate dated 15.03.2019 in respect of Harishankar Agarwal. Ex.P5 is the photocopy of the Sale Deed dated 27.07.1964, registered as Doc.No.2403 of 1964 at SRO, Thirukuzhikundram. Ex.P6 is the photocopy of the Deed of Rectification dated 16.06.2016. Ex.P7 is the affidavit of assets showing the net value of the estate as Rs.4,91,32,392.05. Ex.P8 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.P9 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.P10 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.P11 is the consent affidavit given by the 4th respondent herein stating that she has no objection in grant of Probate as prayed in the petition. Ex.P12 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.P13 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.

6. One of the attestors of the Will dated 14.07.2018 viz., Mrs.Indu Agarwal was examined as P.W.2. In her evidence, she has stated that Mr.J.Harishankar Agarwal is her husband. Mr.Harishankar Agarwal executed this Will on 14.07.2018 Ex.P1 in her presence and in the presence of Mr.H.Rajendra Kumar Agarwal. At his request, she subscribed her signature as the first attesting witness along with Mr.H.Rajendra Kumar Agarwal, who attested the Will Ex.P1 as the second attesting witness in the presence of Mr.Harishankar Agarwal. She saw her husband Mr.Harishankar Agarwal signing in all the pages of the Will Ex.P1. All of them signed in each other's presence. He was in a sound and disposing state of mind, memory and understanding at the time of execution of Ex.P1 Will. She filed her 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.



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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 his 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/26.11.2021

COURT OFFICER(O.S.)

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