



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

WEDNESDAY, THE 27TH DAY OF OCTOBER 2021

THE HON'BLE MR. JUSTICE V.PARTHIBAN

O.P.No.964 of 2019

In the matter of the Indian Succession
Act XXXIX of 1925

and

In the matter of Last Will and
Testament of Ajab Bai- Deceased

Mr.MANAK CHAND JAIN
S/o.Late Shri.Tejraj Jain,
No.80/82, South West Boag Road,
T.Nagar, Chennai-17.

..Petitioner

-Vs-

1. Mr.AJIT KUMAR JAIN
S/o.T.Manak Chand Jain,
Lakshmi Enclave, First Floor,
residing at Lakshmi Enclave,
First Floor, Old No.42,
New No.34, South Boag Road,
T.Nagar, Chennai-17.

2. Mr.NARESH JAIN
S/o.T.Manak Chand Jain,
Old No.14, New No.78,
South West Boag Road,
T.Nagar, Chennai-17

3. Mrs.PRIYA JAIN
Widow of Late Mr.Ramesh jain



4. Ms.RIDDHI JAIN
D/o.Late Mr.Ramesh Jain

5. Mast. NAMAN JAIN (MINOR)
S/o.Late Mr.Ramesh Jain,
Rep. by mother and guardian Mrs.Priya Jain,

Respondents 3 to 5 residing at Lakshmi Enclave,
Third Floor, Old No.42,
New No.34, South Boag Road,
T.Nagar, Chennai-17.

..Respondents

Original Petition praying that this Hon'ble Court be pleased that he may be allowed to prove the WILL in common form, and that probate thereof, to have effect limited 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.Ajab Bai.

2. The case of the petitioner is that Mrs.Ajab Bai resided at No.78,

Old No.14, South West Boag Road, T.Nagar, Chennai-17 and died on



10.03.2001. The petitioner is the husband of the deceased. The respondents are the other family members of the deceased. The parents of the deceased predeceased her. The petitioner and the respondents are the class-I legal heirs of the deceased Mrs.Ajab Bai. The deceased executed a Will dated 25.02.2001, 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 25.02.2001. 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.Ajab Bai, 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.43,13,940/- 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.43,13,940/-. The petitioner

undertakes to duly administer the properties and credits of the deceased



Mrs.Ajab Bai 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 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 testatrix on 25.02.2001 and marked **Exs.P1 to Exs.P12**. Ex.P1 is the original Will dated 25.02.2001 executed by Mrs.Ajab Bai, which has been attesting by two attesting witnesses namely 1.Mr.Gyan Jain, and 2.Mr.T.Uttam Chand. Ex.P2 is the computer generated death certificate of M.Ajab Bai, who died on 10.03.2001. Ex.P3 is the photocopy of the legal heirship certificate dated 31.05.2001 in respect of M.Ajab Bai. Ex.P4 is the original death certificate of Ramesh, who died on 31.10.2010. Ex.P5 is the photocopy of the legal Heirship certificate dated 07.01.2011 in respect of Mr.Ramesh Jain. Ex.P6 is the photo copy of the notice revising the property tax, dated 08.10.2018. Ex.P7 is the affidavit of Assets showing the net value of the estate as Rs.43,13,940/- Ex.P8 is the consent affidavit



given by the 1st respondent. Ex.P9 is the consent affidavit given by the 2nd respondent. Ex.P10 is the consent affidavit given by the 3rd respondent. Ex.P11 is the consent affidavit given by the 4th respondent. Ex.P12 is the consent affidavit given by the 5th respondent.

6. One of the attestors of the Will dated 25.02.2001 viz., Mr.Gyan Jain was examined as P.W.2. In his evidence, he has stated that Ajab Bai is his sister-in-law. As such, he was well acquainted with her. She executed this Will Ex.P1 on 25.02.2001 in his presence and in the presence of Mr.T.Uttam Jain. At her request, he subscribed his signature as the first attesting witness along with Mr.T.Uttam Jain, who attested the Will Ex.P1 as the second attesting witness in the presence of Mrs.Ajab Bai. He saw Mrs.Ajab Bai signing all the pages of the Will Ex.P1. The signature found at the foot of the Will Ex.P1 is that of Mrs.Ajab Bai. The signature at the column of the first attesting witness is that of his signature. The Signature at the column of the second attesting witness is that of Mr.T.Uttam Jain, his elder brother. All of them signed in each other's presence. Mrs. Ajab Bai was in a sound and disposing state of mind, memory and understanding at the time of execution of Ex.P1 Will. He filed his affidavit in this regard which is marked as Ex.P13.



7. Another attester of the Will dated 25.02.2001 was examined as P.W.3 and In his evidence, he has stated that Ajab Bai is his sister-in-law. As such, he was well acquainted with her. She executed this Will Ex.P1 on 25.02.2001 in his presence and in the presence of Mr.Gyan Jain. At her request, he subscribed his signature as the second attesting witness along with Mr.Gyan Jain, who attested the Will Ex.P1 as the first attesting witness in the presence of Mrs.Ajab Bai. He saw Mrs.Ajab Bai signing all the pages of the Will Ex.P1. The signature found at the foot of the Will Ex.P1 is that of Mrs.Ajab Bai. The signature at the column of the first attesting witness is that of Mr.Gyan Jain, his younger brother. The Signature at the column of the second attesting witness is that of his signature. All of them signed in each other's presence. Mrs. Ajab Bai was in a sound and disposing state of mind, memory and understanding at the time of execution of Ex.P1 Will. He filed his affidavit in this regard which is marked as Ex.P14.

8. The evidence of P.W.2 and P.W.3 have 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.

9. 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.

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

Sd/.V.P.N.J.
27.10.2021

//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.