

**O.P.No.217 of 2021****C.V.KARTHIKEYAN, J.,**

The executor, who is also one of the attesting witness of the Will dated 22.03.2010 registered as Document No. 44 of 2010 in the Sub Registrar Office at Virugambakkam has filed the present Petition seeking probate of the said Will.

2. The testatrix of the said Will Ms. Vijayalakshmi died as a spinster on 26.09.2019. The first to fourth respondents are the legal heirs of her brother Jayakumar who predeceased her. The fifth respondent is sister, the sixth respondent is another brother, the seventh and eighth respondents are the sons of the sixth respondent. They are the beneficiaries under the Will.

3. A perusal of the records reveal that the private notice had been served on the respondent Nos. 1 to 4 and the Court notice had been served on the respondent Nos. 1, 3 and 4 and could not be served on the respondent No.2, since there was an endorsement that he had left to Singapore. However, the learned Master by noting dated 16.08.2022 had recorded that service had been completed. Counsels had entered appearance on behalf of the 5th to 8th respondents.



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4. The petitioner was directed to tender evidence and accordingly, he examined himself as PW-1. He also stated that he was the attesor of the Will and identified the Will. The Will was marked as Ex.P-2, the death certificate of the testatrix Vijayalakshmi was marked as Ex.P-3. The consent affidavits given by the 5th and 6th respondents were marked as Exs.P-5 and P-6. The other attesting witness was not available. The petitioner was executor and also attesor.

5. The learned counsel pointed out that the stipulation under Section 68 of the Indian Evidence Act 1872 had been complied with by examination of the attesting witness, who independently happened to be the executor of the Will.

6. In view of evidence presented, the probate of the Will dated 22.03.2010 is granted and this Original Petition is allowed as prayed for.

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22.09.2022

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