

**O.P.No.241 of 2019****C.V.KARTHIKEYAN, J.,**

This petition has been filed under Order XXV Rule 4 of O.S.Rules read with Section 222 and 276 of Indian Succession Act, 1925 for the grant of Probate in respect of the last Will of G.Madhavan.

2. The petitioner is the son of Late G.Madhavan. The first respondent is his mother. The second and third respondents are the sisters of the petitioner. The fourth and fifth respondents are the grand daughters of the first respondent.

3. It is stated that G.Madhavan died on 18.03.2000 and had left behind a Will dated 10.03.1983. The petitioner is his son had been appointed as sole executor. The petition has been filed to grant probate of the Will.

4. The respondents have filed their consent affidavits. The petitioner was invited to adduce evidence. He examined himself as PW-1. Ex.P-1 was the registered Will dated 10.03.1983. Ex.P-2 was the death certificate of G.Madhavan. Ex.P-3 was the copy of the legal heirship certificate. The consent affidavits given by the respondents had been marked as Exs. P-6 to P-8.

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5. Section 68 of the Indian Evidence Act requires that at least one of the attesting witness should be examined. However, the petitioner had come to Court claiming that the attesting witnesses have died.

6. In view of that particular fact, he had chosen to examine as RW-1 the first respondent / mother, who identified the signature of the deceased G.Madhavan and her evidence had been recorded as RW-1. In view of the fact that the signature of the deceased had been identified though not in total conformity with Section 69 which stipulates that in the absence of the attestor anybody, who can speak to the writing of the attestors should be examined, still, since the respondents have also not raised any objection and have granted consent for the probate and there are no suspicious circumstances pointed out by any of the parties, I would grant probate of the Will as sought for in this Petition.

7. Accordingly, this Original Petition is allowed.

09.09.2022

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