

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

TUESDAY, THE 11TH DAY OF JANUARY 2022

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

O.P.No.480 of 2021

In the matter of Indian Succession
Act, 1925 (Act XXXIX of 1925)

and

In the matter of Last Will and
Testament of Smt.Vimala
Ramamurti-Deceased.

DR. S.R.RAVI
S/o.Late Dr.A.Ramamurti,
Old No.34, New No.77,
Second Main Road,
Gandhi Nagar, Adyar,
Chennai - 600 020.

..Petitioners

-Vs-

1. Mr.S.R.BALAJI
S/o.Late Dr.A.Ramamurti,

2.Ms.TEJESVINI
D/o.Dr.S.R.Ravi,

Both are residing at Old No.34,
New No.77, Second Main Road,
Gandhi Nagar, Adyar,
Chennai - 600 020.

..Respondents

Original Petition praying that this Hon'ble Court be pleased to permit the petitioner 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 seeking for grant of Probate. The petitioner is the son of the Testatrix Smt.Vimala Ramamurti, who died on 05.06.2007, leaving behind a Will dated 04.05.2007, under which, the petitioner and the respondents are the beneficiaries.

2. The petitioner has also been appointed as an Executor under the aforementioned Will by the Testatrix Smt.Vimala Ramamurti. The petitioner and the first respondent are the only sons of the deceased Testatrix Smt.Vimala Ramamurti and the second respondent is her grand daughter, born to the petitioner.

3. There are two attesting witnesses under the subject Will dated 04.05.2007 and they are Mr.Gnanasekaran and Mr.B.T.V.Murthy.

4. Before the Learned Master, the petitioner was examined as a witness(P.W.1). In his deposition, he has reiterated the contents of the petition filed in support of O.P.No.480 of 2021. Through P.W.1, the following documents were marked as Exhibits:-

<i>Exhibits</i>	<i>Nature of the documents</i>
Ex.P1	Photocopy of the certified copy of the Sale Deed dated 19.01.1970, registered as Doc.No.75 of 1970 at Sub Registrar's Office, Saidapet.
Ex.P2	Computer generated death certificate of A.Ramamurti, who died on 12.05.2006.
Ex.P3	Original Will dated 04.05.2007 executed by Vimala Ramamurti, registered as Doc.No.52 of 2007 at Sub Registrar's Office, Adyar.
Ex.P4	Computer generated death certificate of R.Vimala, who died on 05.06.2007.
Ex.P5	Photocopy of the statement in Indian Overseas Bank for the period 24.09.2013 to 01.05.2017 held by R.Vimala, bearing account No.4971.
Ex.P6	Photocopy of the statement in UCO Bank for the period from 09.01.2012 to 03.04.2017 held by R.Vimala.
Ex.P7	Series 7 sheets are the photocopies of the share certificates standing in the name of deceased R.Vimala.
Ex.P8	Series 3 sheets are the photocopies of the National Savings Certificates standing in the name of R.Vimala.
Ex.P9	Consent affidavit given by the first respondent stating that he has no objection in grant of Probate as prayed in the petition.
Ex.P10	Consent affidavit given by the second respondent stating that she has no objection in grant of Probate as prayed in the petition.
Ex.P11	Affidavit of assets showing the net value of the estate as Rs.8,38,24,947/-.

5. Through P.W.2, the following document was marked.:-

Ex.P-12	Affidavit of P.W.2, Mr.Gnanasekaran
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6. The first attesting witness Mr.Gnanasekaran to the subject Will was also examined as a witness (P.W.2). In his deposition, he has deposed that he knows the Testatrix Smt.Vimala Ramamurti for long time. He has deposed that he knows her for the past twenty years and the Testatrix Smt.Vimala Ramamurti knows his mother also. He has deposed that at the time of registration, he went to the Registrar's Office along with the Testatrix and the second attesting witness. He has deposed that only on the request made by the Testatrix, he has subscribed his signature as the first attesting witness along with Mr.B.T.V.Murthy, who attested Ex.P3 Will as the second attesting witness in the presence of the Testatrix Smt.Vimala Ramamurti. He has also deposed that he saw Smt.Vimala Ramamurti subscribing her signature in Ex.P3 Will. He has also deposed that all of them signed in the subject Will in each other's presence. He has also deposed that Smt.Vimala Ramamurti was in a sound and disposing state of mind, memory and understanding at the time of execution of Ex.P3 Will. In support of his deposition, he has also filed an affidavit, which has been marked as Ex.P12.

7. The respondents have also given their consent affidavits for grant of Probate in favour of the petitioner which have been marked as Exs.P9 and P.10.

8. As seen from the evidence available on record, the Testatrix Smt.Vimala Ramamurti died on 05.06.2007 as seen from her death certificate, which has been marked as Ex.P4 leaving behind a registered Will dated 04.05.2007, registered as a Document No.52 of 2007 at Sub Registrar's Office, Adyar, which has been marked as Ex.P3. Testatrix Smt.Vimala Ramamurti's husband Mr.A.Ramamurti predeceased her on 12.05.2006 as confirmed by his death certificate, which has been marked as Ex.P2. Under the subject Will, the petitioner and the respondents are the beneficiaries. The petitioner and the first respondent are brothers and the third respondent is the daughter of the petitioner.

9. The Sale Deed dated 19.01.1970, registered as Document No.75 of 1970 at Sub Registrar's Office, Saidapet, which is the subject matter of the Will dated 04.05.2007, has been marked as Ex.P1. Though, the original Sale Deed has not been marked, this Court takes judicial notice of the fact that being a registered document and the original was compared, there is no necessity for marking of the original document.

10. The bank statements pertaining to Indian Overseas Bank and UCO Bank, standing in the name of the deceased Testatrix Smt.Vimala Ramamurti have also been marked as Exs.P5 and P.6. and they are also the subject matter of the Will dated 04.05.2007. The share certificates and National Savings Certificates standing in the name of the Testatrix Smt.Vimala Ramamurti have been marked as Exs.P7 and P.8 respectively which are also the subject matter of the Will. The consent affidavit given by the first respondent has been marked as Ex.P9, under which he has given no objection for grant of Probate in favour of the petitioner and similarly, the consent affidavit given by the second respondent has been marked as Ex.P10, under which she has given her consent for the grant of Probate in favour of the petitioner.

11. After giving due consideration to the pleadings and evidence available on record, this Court is inclined to grant Probate as prayed for in favour of the petitioner.

12. Accordingly, Registry is directed to grant "Probate" in respect of the said Will in favour of the petitioner. As undertaken by the petitioner in paragraph 15 of the petition, the petitioner shall duly administer the

property(ies) and credits of the deceased Testatrix Smt.Vimala Ramamurti in any way concerning her Will by paying first her debts and the legacies therein bequeathed so far as the assets will extend and to make full and true inventory thereof and exhibit the same before this Court within six months from the date of issuance of Probate by the Registry of this Court and also to render before this Court a true and proper account of the said property(ies) and credits within one year from the date of issuance of Probate by the Registry of this Court.

Sd/.A.Q.J.
11.01.2022

//Certified to be a true copy//

Dated at Madras this the day of 2022.

SU./28.02.2022

COURT OFFICER(O.S.)

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