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KRISHNAN RAMASAMY.J.

This petition has been filed under Sections 222 and 276 of the Indian Succession Act, 1925 and Order XXV, Rule 4 of O.S. Rules, for grant of Probate.

2. In the petition, it is stated by the petitioner that the deceased C.S. Balakrishnan, was permanently residing at 961/006, Tri Star Apartment, Avinashi Road, Coimbatore South, Pappanaickenpalayam, Coimbatore – 641 037 and he died on 18.11.2020, leaving behind his mother – Bakiyam/1st respondent, wife – Savithri/2nd respondent and daughter – Tamil Malar/3rd respondent as his legal heirs. The petitioner is the son of the maternal aunt of the deceased C.S. Balakrishnan. During his life time, the deceased executed his Last Will and Testament dated 30.03.2020 and bequeathed the Schedule property in favour of the petitioner.

3. When this case came up before this Court on an earlier occasion for arguments, this Court raised certain doubts as to why the Will was executed



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by the testator in favour of the petitioner, who is the maternal aunt's son of the testator and not in favour of his mother, wife and minor daughter.

Therefore, this Court directed the second respondent/wife of the deceased to appear before this Court. As per the direction of this Court, the second respondent has appeared before this Court today and when the Court asked her if she has any objection, in respect of the same as all the three respondents have expressed their no objection and filed their consent affidavit, the second respondent submitted that it was the wish of her husband to give the Suit Schedule mentioned property as stated in the Will to the petitioner, therefore, she, her daughter and her mother-in-law have no objection in this regard. The respondents have also given their consent affidavit, expressing no objection for probate of the Will. The total amount of assets will be for a sum of Rs.70,00,000/-.

4. It is further stated that so far no application has been filed in any other Court for the Probate of the Will of the said deceased or Letters of Administration with or without the Will annexed to the property and credits of the deceased Late C.S. Balakrishnan.



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5. In order to prove the Will, the petitioner was examined as P.W.1 and marked the documents as Exs.P1 to P12. He narrated the averments made in the petition stating that he has filed this petition for the grant of probate in his favour in respect of the Will executed by Late C.S. Balakrishnan on 30.03.2020. Ex.P1 is the original Will dated 30.03.2020 executed by C.S. Balakrishnan. Ex.P2 is the computer generated death certificate of C.S. Balakrishnan. Ex.P3 is the computer generated Legal Heirship Certificate in respect of C.S. Balakrishnan. Ex.P4 is the certified copy of the Sale Deed dated 15.05.1996 (The original sale deed is not produced. Counsel insisted to mark the certified copy of the document as the secondary evidence. Witness states that the property was mortgaged with a bank and the original deed was deposited in the bank. Admissibility and evidentiary value of this document will be decided later). Ex.P5 is the certified copy of the Sale Deed dated 07.04.2004 (The original sale deed is not produced. Counsel insisted to mark the certified copy of the document as the secondary evidence. Witness states that the property was mortgaged with a bank and the original deed was deposited in the bank. Admissibility and evidentiary value of this document will be decided later). Ex.P6 is the certified copy of the Sale Deed



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dated 07.04.2004 (The original sale deed is not produced. Counsel insisted to mark the certified copy of the document as the secondary evidence.

Witness states that the property was mortgaged with a bank and the original deed was deposited in the bank. Admissibility and evidentiary value of this document will be decided later). Ex.P7 is the certified copy of the Sale Deed dated 07.04.2004 (The original sale deed is not produced. Counsel insisted to mark the certified copy of the document as the secondary evidence.

Witness states that the property was mortgaged with a bank and the original deed was deposited in the bank. Admissibility and evidentiary value of this document will be decided later). Ex.P8 is the photocopy of the Supreme Court Order dated 05.11.2014 passed in S.L.A.No.15720 of 2015 (compared with the original). Ex.P9 is the photocopy of the order dated 05.11.2014 passed by this Hon'ble Court in S.A.No.396 of 2011. Ex.P10 is the consent affidavit given by the first respondent. Ex.P11 is the consent affidavit given by the second respondent on her behalf and also on behalf of her minor daughter, 3rd respondent herein. Ex.P12 is the affidavit of assets showing the net value of the estate as Rs.70,00,000/-.

6. One attesting witness of the Will dated 30.03.2020 namely



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Mr.T.Balamuruganandham was examined as P.W.2 and he has stated that Ex.P1 Will was executed and signed by C.S. Balakrishnan in a sound and disposing state of mind in his presence. Ex.P13 is the affidavit filed by him.

7. In the light of the averments made in the petition and the deposition of P.W.1 and P.W.2 supported by documents Exs.P1 to P13, it is clear that the petitioner has proved the Will and there is no contra evidence. Hence, I am satisfied that the petitioner is entitled to the relief sought for.

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

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