

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

FRIDAY, THE 28TH DAY OF JANUARY 2022

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

O.P.No.476 of 2021

In the matter of the Indian
Succession Act, of 1925
and
In the matter of Last Will
and Testament of
L.V.Ramanathan
-(deceased)

R.SUNDAR
S/o.L.V.Ramanathan,
Flat D3, RAMS Flats,
14, Dhanakottiammal Street,
Kodambakkam, Chennai – 600024

..Petitioner

Original Petition praying that this Hon'ble Court be pleased that he may be allowed to prove the will dated 26.12.2016 in common form, and that probate therefore, to have effect throughout 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 of a Will dated 26.12.2016 executed by the testator L.V.Ramanathan, who is the petitioner's father.

2. Under the subject Will, the petitioner is the beneficiary. The testator late L.V.Ramanathan died on 02.03.2017 leaving behind the petitioner and his other son R.Suresh as his only legal heirs. R.Suresh, the other son also died on 21.04.2021. The wife of the testator Hemamalini @ Hema pre-deceased him on 01.03.2008. Under the subject Will dated 26.12.2016, the petitioner has been appointed as an Executor and he is also the beneficiary. There are two attesting witnesses in the subject Will viz., M.V.Varadarajan and S.Natarajan.

3. Before the learned Master, the petitioner R.Sundar, the son of the testator late L.V.Ramanathan 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.476 of 2021. Through P.W.1, the following documents were marked as Exhibits:-

<i>Exhibits</i>	<i>Nature of the document</i>
Ex.P1	Computer generated death certificate of L.V.Ramanathan, who died on 02.03.2017.
Ex.P2	Original unregistered Will and Testament dated 26.12.2016 executed by L.V.Ramanathan, which has been attested by two attesting witnesses namely 1.M.V.Varadarajan and 2.S.Natarajan.
Ex.P3	Computer generated Legal Heirship certificate dated 07.06.2019 in respect of Hemamalini @ Hema.
Ex.P4	Photocopy of the Family Card of L.V.Ramanathan for the period of 2005- 2009
Ex.P5	Computer generated death certificate of R.Suresh, who died on 21.04.2021.
Ex.P6	Photocopy of the Sale Deed dated 23.05.1988 executed in favour of L.V.Ramanathan.
Ex.P7	Computer generated Encumbrance Certificate dated 21.08.2020.
Ex.P8	Photocopy of the LIC Policy Bond bearing policy No.716991571 in respect of deceased L.V.Ramanathan
Ex.P9	Downloaded copy of demat account details of deceased L.V.Ramanathan.
Ex.P10	Affidavit of assets showing the net value of the estate as Rs.1,11,59,875/-

4. One of the attesting witnesses M.V.Varadharajan was also examined as a witness (P.W.2). In his deposition, he has deposed that the testator L.V.Ramanathan was his neighbour and he is well acquainted with him. He has also deposed that the Will dated 26.12.2016 (Ex.P2) was executed by L.V.Ramanathan only in his presence and in the presence of the second attesting witness S.Natarajan. He has also deposed that on the

request made by L.V.Ramanathan, he subscribed his signature as first attesting witness along with S.Natarajan, who is the second attesting witness and both had signed the document only in the presence of the testator L.V.Ramanathan. He has also deposed that he saw L.V.Ramanathan signing in each page of the Ex.P2 Will and all of them signed the said document only in each others' presence. He has also deposed that the testator L.V.Ramanathan was in a sound and disposing state of mind, memory and understanding at the time of execution of the Ex.P2 (Will). In support of his deposition, he has also filed an affidavit, which has been marked as Ex.P11.

5. As seen from the evidence available on record, it is clear that the testator L.V.Ramanathan died on 02.03.2017, as evidenced by his death certificate leaving behind the Will dated 26.12.2016, which has been marked as Ex.P2, in which the petitioner, who is his son, has been appointed as the Executor and who is also the beneficiary. The wife of the testator L.V.Ramanathan pre-deceased him on 01.03.2008, as seen from her legal heirship certificate dated 07.06.2019, which has been marked as Ex.P3. The other son of the testator L.V.Ramanathan by name R.Suresh died on 21.04.2021 as evidenced from his death certificate, which has been marked as Ex.P5. Therefore, as on date, the only legal heir for the deceased testator L.V.Ramanathan is the petitioner.

6. There are two attesting witnesses in the subject Will (Ex.P2) and they are M.V.Varadharajan and S.Natarajan. One of the attesting witnesses by name M.V.Varadharajan has been examined as a witness (P.W.2). In his deposition, he has deposed that he knows L.V.Ramanathan very well as he was his neighbour. He has also deposed that only in his presence and in the presence of the second attesting witness S.Natarajan, the subject Will (Ex.P2) was executed by the testator L.V.Ramanathan. He has also deposed that he saw L.V.Ramanathan signing in each page of the Ex.P2 Will and he has identified the signature of the testator L.V.Ramanathan in the subject Will. He has also deposed that all the signatories to the subject Will (Ex.P2) signed the said document only in each others' presence. He has also deposed that the testator was in a sound and disposing state of mind, memory and understanding at the time of execution of Ex.P2 Will.

7. An averment has also been made in the petition that no application has been made to the District Court or delegate or to any High Court for Probate of any Will of the deceased or Letters of Administration with or without the Will annexed to the properties and credits of the deceased. No application for Succession Certificate in respect of any debts or security belonging to the estate of the deceased has been made to any District Court or delegate or to any High Court.

8. After giving due consideration to the pleadings and the evidence available on record, this Court inclines to grant Probate to the petitioner in respect of the Will dated 26.12.2016 of L.V.Ramanathan, as the said Will has been proved.

9. Accordingly, Registry is directed to grant "Probate" in respect of the said Will in favour of the petitioner. As undertaken by the petitioner in the petition, the petitioner shall duly administer the property(ies) and credits of the deceased in any way concerning his Will by paying first his 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.
28.01.2022

//Certified to be a true copy//
Dated at Madras this the day of 2022.

SU./01.02.2022

COURT OFFICER(O.S.)

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