



Application No.3134 of 2022 in
O.P.No.436 of 2019

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C.V.KARTHIKEYAN,J.

This Original Petition has been filed taking advantage of Sections 222 and 276 of Indian Succession Act r/w Order XXV Rule 4 of O.S.Rules seeking probate of the Will which has been marked as Ex.B.4 of T.Annie Thomas.

2. There are two respondents who have given their consent for grant of probate. Naturally evidence is required. Parties were directed to record evidence. The learned Master has recorded evidence. Ex.P.4 is the original Will which has been produced. There is necessity under Section 68 of the Evidence Act to examine one of the attester and accordingly attester was sought to be examined but she was incapacitated and could not come to Court, the assistance of Ms.A.S.Dhanalakshmi was sought and this Court places its deep appreciation for the learned Advocate Commissioner for having come forward to record evidence of the attesting witness. Necessary documents with respect to the same had also been filed.

3. The witness identified the signature and also stated that the Will was executed at a time when Mrs.T.Annie Thomas was having full control on her physical and mental status. The learned counsel for the respondents was also present who also affirms the execution of the Will and also the fact that it was executed in the presence P.W.2 - the



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attester. The Will stands therefore proved and no further examination of the Will is required.

4. Registry may issue Order of grant of probate to the petitioner, in its normal form as Will has been proved during the course of evidence.

5. On a memo being filed by the Advocate Commissioner, an additional fees of Rs.20,000/- (Rupees Twenty Thousand only) is directed to be paid by the petitioner to the Advocate Commissioner directly.

6. Accordingly, this Original Petition stands allowed. Records to be constrained to the Record room and a noting may be made in the Register that the Will has been proved in a manner known to law.

05.09.2022

mrm

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