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O.P.No. 156 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **28.07.2023**

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No. 156 of 2023

Ashish Judah Philip

Petitioner

Vs.

Philip Ajit Kumar

... Respondent

Original Petition is filed under Sections 222 and 276 of the Indian Succession Act read with Order XXV Rule 4 of the Original Side Rules, prays to prove the Will of the deceased Eunice Catherine Lionel in common form and that the probate thereof, to have effect throughout the State of Tamil Nadu to be granted to the petitioner herein.

For Petitioner : Mr.A.Gnana Esther Dorothy

For Respondents : Mr.S.Vasanthi

ORDER

This Original Petition has been filed for issuance of Probate for the last Will and testament dated 25.05.2022 executed by Late Eunice Catherine Lionel.

2. The petition mentioned properties belonged to one Eunice Catherine Lionel who died on 07.09.2022. Her husband Belavendram Thumbuswamy



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Lionel predeceased her on 24.05.2008. During her lifetime, Eunice Catherine Lionel executed a registered Will dated 25.05.2020 bequeathing the petition mentioned property in favour of the petitioner and he has been appointed as the executor of the Will. The respondent is the son of the testator and the petitioner is the grandson of the testator and the son of the first respondent. Since the Will came into effect after the death of the testatrix, the petitioner had filed this petition for grant of probate.

3. The petitioner examined himself as P.W.1 and Exs.P1 to P5 were marked. One of the attestors of the Will by name Prem Kumar Emmanuel was examined as P.W.2.

4. The registered Will has been marked as Ex.P1. The sale deeds in favour of the testator is marked as Exs.P4 and P5. From the death certificate Ex.P2 it is seen that the testatrix died on 07.09.2022. From the legal heirship certificate produced as Ex.P3 it is seen that the respondent is his only legal heir.

5. The respondent did not raise any objection though his consent affidavit is not marked as document. The attesting witness P.W.2 had stated in



his evidence that himself and the other attester by name L.Jebaraj were present at the time when the Will was executed and he had seen the testatrix affixing her signatures in their presence. He further stated that the testatrix was in sound and disposing state of mind at the time of execution. He further deposed that he and the said L.Jebaraj affixed their signatures in the Will in the presence of the testatrix.

6. The evidences of PW.1 and PW.2 and the documents available on record would show that the Will has been executed as per the terms of Section 63(c) of the Indian Successions Act and the same has been proved in terms of Section 68 of the Indian Evidence Act. Since the petitioner had proved the genuineness of the Will in which he had been appointed as executor of the Will, the relief sought shall be granted.

7. In the result, the Original Petition is allowed by granting probate of the last Will and Testament dated 25.05.2022 of late Eunice Catherine Lionel, to the petitioner to have effect limited throughout the State of Tamil Nadu.

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APPENDIX

Witnessed examined:

P.W.1 – Ashish Judah Philip

P.W.2 – Prem Kumar Emmanuel

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
P1	Original Will dated 25.05.2022 executed by the deceased Mrs. Eunice Catherine Lionel in favour of the petitioner.
P2	Computer generated copy of the death certificate of deceased testator Mrs.Eunice Catherine Lionel dated 23.09.2022.
P3	Computer generated copy of the legal heirship certificate of the deceased testator Mrs.Eunice Catherine Lionel dated 28.11.2022.
P4	Photocopy of the sale deed dated 16.09.1993 (compared with original)
P5	Photocopy of the sale deed dated 25.05.1985 (compared with original)

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R.N.MANJULA, J.

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