



WEB COPY



O.P.No.128 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **27.07.2023**

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No. 128 of 2022

M.Jagadheesan

...

Petitioner

Vs.

1.G.Prasad

2.Pughazharasu

3.Bhuvaneswari

4.Yogeswari

5.Parthiban

...

Respondents

PRAYER: Original Petition filed for Testamentary and Intestate under Sections 222 and 276 of the Indian Succession Act and under Order XXV Rule 4 of the High Court Original Side Rules, prays the petitioner may be allowed to prove that the Will common form and that Probate thereof to have effect, limited to State of Tamil Nadu may be granted to the petitioner.

For Petitioner : M/S.P.B.Ramanujan

For Respondents : No appearance

ORDER

This Original Petition has been filed for issuance of Probate for the last Will and testament dated 12.05.2021 executed by Late P.Surya who died on 19.05.2021.



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2. The petition mentioned properties were owned by P. Suriya which as her self acquired property and she died on 19.05.2021. During her lifetime, she executed a Will dated 12.05.2021 by bequeathing all her movable and immovable properties in favour of her nephew M.Jagadheesan and by appointing the petitioner as the sole executor of the Will. The 1st respondent is the husband of the testator, the 2nd respondent is the brother of the testator, the 3rd and 4th respondents are the sister of the testator and the 5th respondent is the brother of the testator. Since the petitioner was appointed as the sole executor of the Will, he has filed the application for seeking probate.

3. The petitioner who is the executor has been examined as PW1 and the following documents are marked:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	The original unregistered Will and Testament dated 12.05.2021 executed by Mrs.P.Suriya
Ex.P2	The computer generated death certificate of Mrs.P.Suriya
Ex.P3	The original doctor certificate dated 13.05.2021
Ex.P4	The consent affidavit given by the second respondent
Ex.P5	The consent affidavit given by the third respondent
Ex.P6	The consent affidavit given by the fourth respondent
Ex.P7	The consent affidavit given by the fifth respondent
Ex.P8	The affidavit of assets showing the net value of the estate as Rs.83,70,875/-



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4. The copy of the death certificate of the testator, P.Suriya who died on 19.05.2021 is marked as Ex.P2 and the doctor certificate showing the health condition of the testator, P.Suriya is marked as Ex.P3; the consent affidavit of the R1 to R5 are marked as Exs.P4 to P7 respectively. The affidavit of assets describing movable and immovable properties of the deceased testator is marked as the Ex.P8 and the affidavit of the attesting witnesses is marked as Ex.P9.

5. One of the attesting witnesses of the Will by name P.Rajesh has been examined as PW.2. He has stated in his evidence that he attested in the Will along with one Yogeshwari. He has also stated that himself and other attester had seen the testator affixing her thumb impression in the Will and at the time of execution of the Will, the testator was in a sound disposing state of mind.

6. The evidence 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 Sec.63(c) of the Indian Successions Act and its genuineness has been proved in accordance with Sec.68 of the Indian Evidence Act-1872. Since the petitioner proved the genuineness of the Will through which he had been appointed as executor of the Will, the relief sought shall be granted.



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7. In the result, the Original Petition is allowed by granting a probate of the last Will and Testament dated 12.05.2021 of late P.Suriya the testator to the petitioner to have effect limited to the State of Tamil Nadu.

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Index :Yes/No

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