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O.P.No.491 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2023

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No.491 of 2022

K.Balasubramaniam

... Petitioner

Vs.

1. K.S.Anantha Narayanan

2. K.Vaijyanthi

... Respondents

Original Petition is filed under Section 222 & 276 of the Indian Succession Act, 1925 and under Order XXV, Rule 4 of Original Side Rules, to prove the Will in common form, and that probate thereof, to have effect limited to the State of TamilNadu.

For Petitioner : Mr.R.Kamaraj

ORDER

This Original Petition has been filed under Section 222 & 276 of the Indian Succession Act, 1925 and under Order XXV, Rule 4 of Original Side Rules seeking to prove the Will in common form, and that probate thereof, to have effect limited to the State of TamilNadu.



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2. The averments in the petition are as follows:-

The petition mentioned movable and immovable assets described in the originally belonged to one Ramaswami who died on 23.07.2021. His wife Kamala predeceased him on 23.10.2015. During the life time of Ramaswami, he had executed a registered will dated 04.03.2021 bequeathing his movable and immovable assets in favour of the respondents 1 and 2 by appointing the petitioner as executor of the will.

3. The petitioner examined himself as P.W.1 and Exs.P.1 to P7 were marked.

4. Ex.P1 is the sale deed dated 03.09.1959 executed in favour of D.Ramasamy. Ex.P2 is the supplementary deed dated 17.08.1960 executed in favour of Ramasamy. From Ex.P.3-death certificate of T.Kamala, it is seen that the wife of the testator predeceased him. Ex.P5 is the death certificate of Ramasamy. The 2nd respondent had given her consent in favour of the petitioner.

5. P.W.1 had stated in his evidence that himself and the other attester by name C.Srinivasan who is examined as P.W.2 were present at the time when



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the Will was executed and he had seen the testator affixing his signature in their presence. He further stated that the testator was in sound and disposing state of mind at the time of execution. He further deposed that he and C.Srinivasan affixed their signatures in the Will in the presence of the attestors.

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. The respondents have no objection to grant probate in favour of the petitioner. 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 04.03.2021 of late D.Ramaswami to the petitioner to have effect limited throughout the State of Tamil Nadu.

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APPENDIX

Petitioner's witness:

P.W.1 – K.Balasubramaniam

P.W.2 – C.Srinivasan

Respondent's witness:

R.W.1 – K.S.Anantha Narayanan

R.W.2 – K.K.Vaijyanthi

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
P1	Photocopy of the sale deed dated 03.09.1959 executed in favour of Mr.D.Ramasamy
P2	Photocopy of the supplemental deed to Ex.P.1 dated 17.08.1960 executed in favour of Mr.D.Ramasamy
P3	Computer generated death certificate of Dr.T.Kamala
P4	Original Will dated 04.03.2021 executed by Mr.D.Ramasamy
P5	Computer generated death certificate of Mr.D.Ramasamy
P6	Photocopy of petitioner's Aadhar Card
P7	Affidavit of assets showing the net value of estate of Rs.1,04,32,156/-

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