



O.P.No.158 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 18.04.2023

CORAM

THE HONOURABLE **MR.JUSTICE K.KUMARESH BABU**
O.P.No.158 of 2022

E.Sundaraj

... Petitioner

Vs

1.Mrs.S.Udaya Kumari

2.Mrs.Thirupuram

3.Mrs.V.s.Mangala Gowri

4.Mrs.J.Nirmala

5.Mrs.Bharathi

6.Mr.Dhandapani Selvaraj

7.Mr.Karthikeyan Selvaraj

8.Mrs.K.Mohanambigai

9.Mr.Kamalakannan

10.Mr.Guru Kumar alias K.Gurunathan

... Respondents

PRAYER: Original Petition filed for Testamentary and Intestate under Section 222 and 276 of Indian Succession Act, 1925 under Order XXV Rule 4 of Original Side Rules, prays that the petitioner may be allowed to prove that the Will in common form and that Probate thereof to have effect, limited to State of Tamil Nadu may be granted to him.



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For Petitioner : Mr.P.B.Ramanujam

ORDER

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This Original Petition has been filed for issuance of probate for the last Will and testament dated 18.10.1995 executed by Late T.Ekambaram, who died on 12.02.1998. The petitioner, first, second and third respondents are the son and daughters, fourth to seventh respondents are the legal heirs of the deceased daughter S.Shantha Kumari and eighth to tenth respondents are the legal heirs of the pre-deceased son E.Kumar of the testator. The petitioner has been appointed as a sole executor under the Will.

2. The petitioner has been examined as P.W.1. He has produced the death certificates of the testator T.Ekambaram, E.Sakunthala (wife of the testator), Santha Kumari (daughter of the testator) and E.Kumar (son of the testator) which have been marked as Exs.P2, P3, P4 and P5. The Original registered Will and Testament dated 18.10.1995, has been produced as Ex.P1, and the legal heirship certificate of the testator's wife is produced, as Ex.P7. A perusal of Ex.P7 shows that the petitioner and the first to third respondents are the only legal heirs of the E.Sakuntala as the testator has pre-deceased. Despite the Court notice served on the first, third, fourth, fifth and eight to tenth respondents, none has chosen to appear either through



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their counsel or in person. The notice served on second respondent was returned with an endorsement that “door locked”, and the notice served on sixth and seventh respondents was acknowledged as absent and affixed, any objections have not been received, in this original petition from the above mentioned respondents or from any other person. Even pursuant to the general publication that has been made regarding the claim, any objections have not been received.

3. One Mr.Girijakumar, who is son of the second attesting witness was examined as P.W.2, as his father died on 06.01.2023. He has identified the signatures of his father and has spoken about the execution of the Will by the testator and its attestation by his father.

4. In view of the said evidence, the execution of the Will stands proved. Hence, the Original Petition is allowed by granting probate for the last will and testament dated 18.10.1995.

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Index :Yes/No



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Speaking: Yes/ No

Neutral Citation: Yes/No

Petitioner's witness:

P.W.1-Mr.E.Sundaraj

P.W.2 -Mr.Girirajkumar

Documents exhibited by the petitioners:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Original Will dated 18.10.1995 executed by Mr.T.Ekambaram
Ex.P2	Original death certificate of T.Ekambaram
Ex.P3	Computer generated death certificate of E.Sakunthala
Ex.P4	Computer generated death certificate of Sandhakumari
Ex.P5	Photocopy of the death certificate of E.Kumar
Ex.P6	Photocopy of the legal heirship certificate of E.Kumar
Ex.P7	Computer generated legal heirship certificate of E.Sakunthala
Ex.P8	Photocopy of the Tamil Nadu Government Gazette dated 10.09.2014 in page No.2765 stating that the 10 th respondent name has been changed from K.Gurunathan to Guru Kumar

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