



O.P.No. 541 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **21.08.2023**

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA
O.P.No. 541 of 2022

Ramakrishnan Muralidharan

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Petitioner

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 allow the petitioner / executor to prove the Will dated 11.02.2003 registered as document No.5 of 2003 on the file of Sub-Registrar, Kodambakkam, in common form, and grant probate thereof to the petitioner, to have effect limited to the state of Tamil Nadu.

For Petitioner : Mr.A.J.Srikanth

ORDER

This Original Petition has been filed for issuance of Probate for the last Will and testament dated 11.02.2003 executed by Late R.Rajeswari

2. The petition mentioned property was originally belonged to one



Rajeswari who died on 10.09.2021. The said Rajeswari had executed a registered Will on 11.02.2023 by bequeathing the said property in favour of the petitioner who is her adopted son. Rajeswari got married to one T.M.Ramakrishnan and the couple did not have any issues. The said T.M.Ramakrishnan predeceased Rajeswari on 04.07.2001. After the demise of Rajeswari, the Will came into effect and hence the petitioner had filed this petition seeking probate.

3. The petitioner examined himself as P.W.1 and Exs.P1 to P9 were marked. A third party by name A.Krishnarao has been examined as P.W.2 .

4. Though the petitioner claims himself as an adopted son of Rajeswari and her husband, no adoption memo has been filed. However he had produced Ex.P6 to show that in his school transfer certificate, his father's name is shown as T.M.Ramakrishnan. It is claimed by the petitioner that the said T.M.Ramakrishnan is the husband of the testatrix Rajeswari. The death certificate of T.M.Ramakrishnan is produced as Ex.P2. The registered Will dated 11.02.2003 has been produced as Ex.P3 and the death certificate of Rajeswari is marked as Ex.P4.



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5. The learned counsel for the petitioner submitted that both the attesting witness are not available and their whereabouts are also not available. So one A.Krishna Rao who is said to be acquainted with the testatrix and conversant with her signature has been examined as P.W.2 and he had identified the testatrix signature in the Will and confirmed that the testatrix has affixed her signature in the Will.

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 69 of the Indian Evidence Act. Since the petitioner had proved the genuineness 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 11.02.2003 of late Rajeswari, to the petitioner to have effect limited throughout the State of Tamil Nadu.

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APPENDIX



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Witnessed examined:

P.W.1 – Ramakrishnan Muralidharan

P.W.2 – A.Krishna Rao

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
P1	Settlement deed dated 07.07.1961 executed in favour of T.M.Ramakrishnan
P2	Death certificate of Settlement deed dated 07.07.1961 executed in favour of T.M.Ramakrishnan
P3	Registered Will dated 11.02.2003 executed by Rajeswari
P4	Computer generated death certificate of R.Rajeswari
P5	Returned postal covers for sending letters to the attestors of the Will
P6	Transfer certificate of Muralidharan
P7	Photocopy of Aadhaar Card of Muralidharan
P8	Printout of the property tax receipt dated 29.11.2019 standing in the name of R.Rajeswari
P9	Affidavit of assets showing the net value of the estate

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