



O.P.No.621 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2023

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No.621 of 2021

R.Sathyannarayanan

... Petitioner

Vs.

1. S.Jayashankar @ Jayashankar Sharma

2. Poornima Raina @ S.Poornima

...Respondents

Original Petition is filed under Sections 222 & 276 of the Indian Succession Act, XXXIX of 1925 read with Order XXV Rule 4 of the Original Side Rules, the petitioner allowed to prove the WILL in common form and that the probate thereof to have effect throughout the Union of India.

For Petitioner : Mr.P.Anbarasan

ORDER

This Original Petition has been filed under Sections 222 & 276 of the Indian Succession Act, XXXIX of 1925 read with Order XXV Rule 4 of the Original Side Rules, to allow the petitioner to prove the WILL in common form and grant probate thereof to have effect throughout the Union of India.



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

The petition mentioned property originally belonged to the father of the 1st and 2nd respondents by name Sankaranarayanan. He had executed a Will dated 21.07.2014 bequeathing his immovable assets in favour of his wife and movable assets in favour of the 1st respondent who is his son. In respect of the above Will, the first respondent had filed a petition in O.P.No.619 of 2021 seeking Letters of Administration and the same was allowed. The mother of the respondents also died on 14.10.2017. During her lifetime she had executed a Will dated 21.07.2014 by bequeathing her movable and immovable properties in favour of her only son who is the 1st respondent herein and appointed the petitioner as the executor of the Will. After her death, the Will came into effect and hence this petition has been filed by the executor of the Will. One of the daughters of Sankaranarayanan who has been impleaded as second respondent did not file any objection.

3. The petitioner examined himself as P.W.1 and Exs..P.1 to P.7 were marked.

4. Ex.P.1 is the original registered Will executed by the testatrix. Ex.P.2 is the death certificate of Sankaranaryanan. Ex.P.3 - legal heirship certificate



of Sankaranarayanan would show that his wife and three children were his only legal heirs. Ex.P6 is the death certificate of one of the daughters of Sankaranarayanan by name Meera Sharma. Though after receiving notice, the second respondent did not file any objection nor contest the matter.

5. One Palani Kumar who is one of the attesting witness of the Will has been examined as P.W.2. He had stated that himself and the other attester by name Manonmani were present at the time when the Will was executed and he had seen the testatrix affixing her signature in their presence. He further stated that the testatrix was found to be in sound and disposing state of mind at the time of execution. He further deposed that he and Manonmani have 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.



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7. In the result, the Original Petition is allowed by granting probate of the last Will and Testament dated 21.07.2014 of late Vijaya Sankaranarayanan to the petitioner to have effect limited throughout the State of Tamil Nadu.

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APPENDIX

Petitioner's witness:

P.W.1 – R.Sathyannarayanan

P.W.2 – D.Palani Kumar

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
P1	Original registered WILL dated 21.07.2014 executed by Vijaya Sankaranarayanan @ Vijaya.
P2	Original death certificate of Mrs.Vijaya Sankaranarayana
P3	Original legal heirship certificate of S.Sankaranarayanan dated 29.10.2004
P4	Photocopy of the sale deed dated 08.02.1971 executed in favour of Sri.S.S.Sankaranarayanan.
P5	Photocopy of the settlement deed dated 07.08.2012 executed in favour of Mr.S.Jayashankar Sharma
P6	Computer generated death certificate of Ms.Meera Sharma
P7	Affidavit of assets showing the net value of estate as Rs.79,80,000/-

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R.N.MANJULA, J.



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