



O.P.No.226 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2023

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

O.P.No.226 of 2022

V.Manikantan
S/o.Vridhagiri

... Petitioner

vs.

Mrs.R.Shanthi

... Respondent

PRAYER: Original Petition filed under Sections 222 and 276 of the Indian Succession Act and Order XXV Rule 4 of the Madras High Court (Original Side) Rules, prayed that he may be allowed to prove the Will in common form and that probate thereof to have effect through the whole of the Union of India may be granted to him.

For Petitioner : M/s.S.Vennimalai



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ORDER

WEB COPY The petitioner seeks the grant of probate in respect of the last Will and testament of his late father, Mr.V.Vridhagiri.

2. The petitioner asserts that the above mentioned last Will and testament was executed on 01.10.2013 by his father in the presence of witnesses, whose names appear at the foot of the Will. The petitioner asserts that his mother pre-deceased his father. The petitioner and his sister being the only class I legal heirs, this petition has been instituted by joining the petitioner's sister as the sole respondent.

3. In order to prove the Will, the petitioner examined himself as PW1. In course of the examination in chief of PW1, the 7 documents listed at the foot of this order were exhibited as Exs.P1 to P7. The original Will (Ex.P1) discloses that it was executed on 01.10.2013 in the presence of two witnesses, namely, Krishnamoorthy and K.Lalitha.

4. The petitioner has been named as an executor. In the Will, it is recorded that the daughter of the testator was sufficiently provided for at the



time of her marriage. Thereafter, the testator has recorded that all assets are bequeathed to the petitioner. The death certificate of the testator (Ex.P4) discloses that he died on 08.04.2014. The death certificate of the petitioner's mother (Ex.P2) discloses that she died on 24.08.2013. The legal heirship certificate in respect of the petitioner's mother (Ex.P3) discloses the names of the testator, the petitioner and the respondent herein. The legal heirship certificate in respect of the testator is on record, but was not marked. The said document discloses the names of the respondent and the petitioner as the surviving class I legal heirs. It also recorded therein that the father and mother of the testator died about 30 years earlier. The consent affidavit of the respondent is on record (Ex.P6). As evidence of title of the testator to the assets bequeathed under the Will, the consolidated account statement of NSDL is placed on record (Ex.P5)

5. One of the attesting witnesses, Mr.M.Krishnamoorthy, was examined as PW2. He has filed an affidavit in this regard (Ex.P8). He deposed that he was acquainted with the testator because the testator was his daughter's father-in-law. He also deposed that the Will was executed in his



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presence and that the testator was in a sound and disposing state of mind at the time of execution of the Will.

6. Based on the evidence adduced by the petitioner, the Will stands duly proved. Consequently, the petitioner is entitled to the relief claimed.

7. For reasons aforesaid, O.P.No.226 of 2022 is allowed by granting probate to the petitioner in respect of the last Will and testament dated 01.10.2013. Such probate shall have effect throughout the Union of India.

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Petitioner's witness:

P.W.1 – Mr.V.Manikandan

P.W.2 – Mr.M.Krishnamoorthy

Documents exhibited by the petitioner:

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<i>Exhibit No.</i>	<i>Description</i>
Ex.P1	The original unregistered Will dated 01.10.2013 executed by Mr.V.Vridhagiri.
Ex.P2	The photocopy of the death certifiante of Mrs.Umagiri (Compared with the original).
Ex.P3	The photocopy of the Legal Heirship Certificate of Mrs.Umagiri (Compared with the original).
Ex.P4	The original death certificate of Mr.V.Vridhagiri.
Ex.P5	The original NSDL consolidated account statement for the period 01.09.2018 to 30.09.2018 in respect of demat account of Venkataraman Vridha Giri.
Ex.P6	The consent affidavit given by the respondent.
Ex.P7	The affidavit of assets showing the net value of the estate as Rs.1,14,61,055.95.
Ex.P8	The affidavit of PW2

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