



WEB COPY



O.P.No.339 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2023

CORAM

THE HONOURABLE **MR.JUSTICE K.KUMARESH BABU**
O.P.No.339 of 2022

G.Swaminathan

... Petitioner

Vs

1.G.Kamala

2.Kamakshi Priya

... 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 to prove the Will in common form and that the Probate thereof.

For Petitioner : Mrs.Vedavallikumar

For Respondents : No appearance

ORDER

This Original Petition has been filed for issuance of probate for the last Will and testament dated 28.11.2006 executed by Late S.Gopalakrishnan, who died on 28.05.2020. The petitioner is the son, the first respondent is the wife and the second respondent is the daughter of the testator. The petitioner is appointed as the sole executor under the Will. The second respondent has filed her consent affidavit expressing her consent for grant of probate.



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2. The petitioner has been examined as P.W.1. He has produced the death certificate of the testator S.Gopalakrishnan, as Ex.P3. The Original Will and Testament dated 28.11.2006, has been marked as Ex.P2. The legal heirship certificate of the testator is produced as Ex.P4. A perusal of Ex.P4 shows that the petitioner and the respondents are the only class-I legal heirs of the testator. The said consent affidavit of the second respondent has been marked as Ex.P5.

3. One Mrs.Kamakshi Priya, the second respondent herein, who is the second attesting witness to the said Will has been examined as P.W.2. She has spoken about the execution of the Will by the testator and its attestation by herself and Mr.V.Vaidyanathan.

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 28.11.2006.

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Index :Yes/No

Speaking order: Yes/ No

Neutral citation: Yes/ No



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Petitioner's witness:

P.W.1 – Mr.G.Swaminathan

P.W.2 – Ms.Kamakshi Priya

Documents exhibited by the petitioner:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Photocopy of the Sale Deed dated 31.03.2004 in favour of S.Gopalakrishnan
Ex.P2	Original Will executed by S.Gopalakrishnan on 28.11.2006
Ex.P3	Computer generated death certificate of S.Gopalakrishnan
Ex.P4	Computer generated legal heirship certificate of Gopalakrishnan
Ex.P5	Consent affidavit given by the 2 nd respondent
Ex.P6	Affidavit of assets showing the net value of the estate as Rs.39,80,000/-
Ex.P7	Affidavit given by the attesting witness PW2

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