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O.P.No.760 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2023

CORAM

THE HONOURABLE **MR.JUSTICE K.KUMARESH BABU**
O.P.No.760 of 2021

1.R.Hariharan
2.V.Visweswaran

... Petitioners

Vs

1.S.Ramalingam
2.T.S.Sundar
3.S.Muthukumar
4.Sivakamatchi
5.Siva Charitable Trust

... 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 Petitioners : Mr.Gupta & Ravi

For Respondents : Mr.C.Madanagopal

ORDER

This Original Petition has been filed for issuance of probate for the last will and testament dated 27.12.2018 executed by Late R.Swaminathan, who died on 22.04.2019. The petitioners are the accountants of the testator and they has been appointed as an executor under the Will and the respondents 1 to 3 are the sons, 4th respondent is the grand daughter and 5th respondent is the third party trust of the testator. The respondents 1 to 4 have filed their consent



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affidavits expressing their consent for grant of probate.

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2. The 2nd petitioner has been examined as P.W.1. He has produced the the death certificate of the testator R.Swaminathan, as Ex.P2, and the Original registered Will and Testament dated 27.12.2018 has been produced as Ex.P1.

3. One Eswaran, who is one of the attesting witnesses to the said Will has been examined as P.W.2. He has spoken about the execution of the Will by the testator and its attestation by himself and Mrs.Rajeswari Eswaran. The consent affidavits of the respondents 1 to 4 have been marked as Exs. P11 to P14.

4. In view of the said evidence, the execution of the Will stands proved. Hence, the Original Petition is allowed granting probate for the last will and testament dated 27.12.2018.

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Index :Yes/No

Petitioner's witness:

P.W.1 – Mr.V.Visweswaran

P.W.2 - Mr.Eswaran



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Documents exhibited by the petitioner:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Original registered Will dated 27.12.2018 executed by Mr.Swami Nathan
Ex.P2	Death certificate of Mr.R.Swaminathan
Ex.P3	Computer generated statement of account in respect of current account No.6427790998 with Indian Bank, Ashok Nagar Branch standing in the name of Siva Enterprises.
Ex.P4	Certified copy of the passbook of Central Bank of India, T.Nagar, Branch bearing account No.1014942177 standing in the name of Dr.Swaminathan and Mr.Swami Nathan
Ex.P5	Photocopy of the term deposit receipt bearing account No.6696334663 dated 19.11.2018 standing in the name of Mr.Swami Nathan
Ex.P6	Photocopy of the term deposit receipt bearing account No.6448353782 dated 12.07.2016 standing in the name of Mr.Swami Nathan
Ex.P7	Photocopy of the term deposit receipt bearing account No.6630443680 dated 08.05.2018 standing in the name of Mr.Swami Nathan
Ex.P8	Photocopy of the appraiser's certificate dated 23.02.2021
Ex.P9	Photocopy of the passbook of the Executor of Estate of Mr.R.Swaminathan bearing account No.6797919375 with Indian Bank, Ashok Nagar
Ex.P10	Affidavit of assets showing the net value of the estate as Rs.43,80,454.48/-
Ex.P11	Consent affidavit given by the 1 st respondent
Ex.P12	Consent affidavit given by the 2 nd respondent
Ex.P13	Consent affidavit given by the 3 rd respondent
Ex.P14	Consent affidavit given by the 4 th respondent

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