



WEB COPY



O.P.No.418 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2023

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

O.P.No.418 of 2022

Mr.Astad J.Clubwala
@ Astad Jehangir Clubwala
No.25, Peach Tree Court,
Hawthorne, NJ 07506, USA,
Represented by his Power of Attorney Agent
Mrs.Dilnawaz Belgamvala

... Petitioner

vs.

Mr.Kaikhushru J.Clubwala
@ Kaikhushru Jehangir Clubwala
No.94, Route 416,
Campbell Hall, NY 10916, USA.

... Respondent

PRAYER: Original Petition filed under Sections 222 and 276 of the Indian Succession Act 1925 (Act XXXIX of 1925) read with Order XXV Rule 4 of Original Side Rules 1956, prays that the Petitioner may be allowed to prove the Will of the deceased, Mrs.Mani jehangir Clubwala, dated 15.12.2018, in common form and that probate thereof to have effect



O.P.No.418 of 2022

limited to the State of Tamil nadu may be granted to the Petitioner

(Mr.Astad J.Clubwala @ Astad Jehangir Clubwala).

For Petitioner : Mr.Benjamin E.Moses

For Respondent : Mr. G.Prithiviraj

ORDER

The petitioner seeks a probate in respect of the last Will and testament of his mother, Mrs.Mani Jehangir Clubwala.

2. The petitioner states that his mother executed a Will at Chennai on 15.12.2018 in the presence of witnesses whose names appear at the foot thereof. The testatrix died on 10.03.2022 at Chennai. On the basis that the petitioner is named as executor under the Will, the present petition is filed.

3. The petitioner's brother is arrayed as the respondent. At paragraph 8 of the petition, the petitioner asserts that the parents and husband of the testatrix pre-deceased her.



WEB COPY

4. In order to prove the Will, the agent of the petitioner was examined as PW1. The said agent was one of the attesting witnesses to the Will. In course of the examination-in-chief of PW1, the six documents listed at the foot of this order were exhibited as Exs.P1 to P6.

5. The original Will (Ex.P1) discloses that the said Will was executed on 15.12.2018 at Chennai. The said Will was attested by Lorna Capadia and Dilnawaz Belgamvala. The sons of the testatrix, the petitioner and the respondent herein were jointly or severally appointed as executors of the Will. Under the Will, the assets described in schedule A to D thereto were bequeathed to the persons mentioned in paragraphs 5 to 8 thereof. The residuary has been bequeathed to the sons of the testatrix.

6. One of the attesting witnesses, Mrs.Joan Lorna Martin @ Lorna Capadia, was examined as PW2. She deposed that the testatrix was a close friend and like a mother to her. She further deposed that the testatrix executed the Will in her presence and in the presence of the other attesting



O.P.No.418 of 2022

witness. She also deposed that the testatrix was alert and in good health at the time of execution of the Will.

7. Based on the assertions in the petition and the evidence adduced by the petitioner, the Will stands duly proved. Therefore, O.P.No.418 of 2022 is allowed by granting probate to the petitioner in respect of the Will dated 15.12.2018 of the late Mrs.Mani Jehangir Clubwala. The said probate shall have effect throughout the State of Tamil Nadu.

19.01.2023

Index : Yes

kal

Note: Registry is directed to issue the probate on or before 10.02.2023.

Petitioner's witness:

P.W.1 – Mrs.Dilnawaz Belgamvala

P.W.2 – Mrs.Joan Lorna Martin @ Lorna Capadia



O.P.No.418 of 2022

Documents exhibited by the petitioner:

<i>Exhibit No.</i>	<i>Description</i>
Ex.P1	The original Will dated 15.12.2018 executed by Mrs.Mani Jehangir Clubwala.
Ex.P2	The computer generated death certificate of Mrs.Mani Jehangir Clubwala.
Ex.P3	The photocopy of the Power of Attorney dated 30.03.2022 (Compared with the original) along with the still in force affidavit..
Ex.P4	The affidavit of asserts showing the net value of the estate as Rs.17,18,640/-.
Ex.P5	The consent affidavit given by the respondents.
Ex.P6	The computer generated Legal Heirship Certificate of Mrs.Mani Jehangir Clubwala.

19.01.2023

kal

SENTHILKUMAR RAMAMOORTHY,J



WEB COPY



O.P.No.418 of 2022

kal

O.P.No.418 of 2022

19.01.2023