



O.P.No.456 of 2022

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N.SATHISH KUMAR, J.

This petition has been filed under Sections 222 and 276 of the Indian Succession Act, 1925 read with Order XXV, Rule 4 of Madras High Court Original Side Rules, for the grant of Probate in respect of the last Will and Testament of the deceased S.Arumugam alias Nellai Arulmani.

2. The case of the petitioner is that the petitioner is the wife of the deceased S.Arumugam alias Nellai Arulmani, Respondents 1 to 2 are children of the deceased S.Arumugam alias Nellai Arulmani, fourth respondent is the daughter-in-law of the deceased and Respondents 3, 5 and 6 are grandchildren of the deceased. The deceased S.Arumugam alias Nellai Arulmani died on 05.07.2011. The deceased executed his last Will and Testament dated 21.10.2010. The petitioner is the sole executrix appointed in the Will. The respondents have given no objection for grant of probate in favour of the petitioner. The amount of assets which is likely to come into the petitioner's hands does not exceed in the aggregate sum of Rs.1,07,06,600/- and the net amount of the assets, after



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deducting all items which the petitioner is by law allowed to deduct is of the value of Rs.1,07,06,600/-. The petitioner has impleaded all the kin of the deceased and there is no other person interested to be impleaded. The petitioner undertakes to duly administer the property and credits of the deceased S.Arumugam alias Nellai Arulmani and in any way concerning the Will by paying first his debts and then the legacies therein bequeathed so far as the assets will extend and to make a full and true inventory thereof to the Court within six months from the date of grant of Probate to the petitioner and also to render to this Court a true account of the said property and credits within one year from the said date.

3. The petitioner has examined herself as P.W.1, two attesting witnesses viz., Mr.R.Gomathy Sankar and Mr.V.Kalaiselvan were examined as Pws 2 and 3 and Ex.P.1 to Ex.P.10 have been marked.

4. P.W.1 in her evidence had narrated the averments made in the petition stating that the petitioner has filed this petition for the grant of probate in her favour in respect of the Last Will and Testament executed by the testator S.Arumugam alias Nellai Arulmani on 21.10.2010 marked



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as Ex.P1. Ex.P.2 is the copy of the death certificate of the deceased S.Arumugam alias Nellai Arulmani. Ex.P.2 has been filed to prove that the deceased died on 05.07.2011. Ex.P3 is the legal heirship certificate of S.Arumugam alias Nellai Arulmani. Ex.P10 is the affidavit assets of showing the net value of the estate of the deceased as Rs.1,07,06,600/-.

5. To prove the Will, two attesting witnesses viz., Mr.R.Gomathy Sankar and Mr.V.Kalaiselvan were examined as Pws 2 and 3 and their affidavit has also been filed. They have stated that testator executed his last Will and Testament on 21.10.2010 in their presence. At the request of the testator, P.W.2 and P.W.3 subscribed their signatures as attesting witnesses in the presence of the testator. While executing the Will, the testator was in a sound and disposing state of mind and in his presence the attesting witnesses subscribed their signature in the Will. The evidence of P.W.2 and P.W.3 not only prove the execution but also attestation of the Will and there is no other materials to suspect the Will.

6. In view of the above facts, I am of the view that the petitioner has proved the execution and attestation of the Will. Hence, the petitioner is entitled for the issuance of probate in favour of the petitioner.



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WEB COPY 7. The Original Petition is ordered. Grant probate of the Will in respect of the petitioner.

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