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O.P.No.1061 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2023

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

O.P.No.1061 of 2019

L.Vasudevan

... Petitioner

-VS-

1.J.Jayalakshmi
2.R.Jothi Lakshmi
3.V.Hemavathy
4.R.Vandhana
5.R.Dhanalakshmi

... Respondents

PRAYER: Original Petition filed under Sections 222 and 276 of the Indian Succession Act (39) of 1925 Read With Order XXV Rule 4 of O.S.Rules, pleaded to prove the Will of V.Loganathan (deceased) dated 18.11.2004 in common form and that probate thereof to have effect limited to the State of Tamil Nadu may be granted to the petitioner.

For Petitioner : Mr.M.Md.Ashraf Ali



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ORDER

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The petitioner seeks grant of probate in respect of the last Will and testament of his father, the late V.Loganathan.

2. The petitioner states that his father executed a Will on 18.11.2004 at Chennai and that the said Will was registered as Document No.64 of 2004 on the file of the District Registrar, Chennai North, in the presence of witnesses, whose names appear at the foot of the Will. The testator died on 11.02.2005. Since the petitioner was named as executor of the Will, the petition is presented by him. The petitioner states that the wife of the testator died on 20.05.2015. The four daughters of the testator are respondents 1 to 4 and the fifth respondent is the grand daughter of the testator.

3. In order to prove the Will and establish entitlement to the relief claimed, the petitioner adduced evidence. The petitioner was examined as P.W.1 and in course of the examination in chief of P.W.1, the seven



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documents listed at the foot of this order were exhibited as Exs.P1 to P7.

The original Will dated 18.11.2004 is on record as Ex.P1. This document discloses that it was executed on 18.11.2004. The attesting witnesses of the document are M.Krishnamurthy and R.Baskaran. The death certificate of the testator (Ex.2) discloses that he died on 11.02.2005. The death certificate of the testator's wife (mother of the petitioner) shows that she died on 20.05.2015. The photocopy of the sale deed dated 18.02.1993 under which the relevant immovable asset was acquired by the testator is on record as Ex.P4. The legal heirship certificate in respect of the testator is on record as Ex.P7. This document discloses the names of the petitioner's wife, respondents 1 to 4 and the petitioner herein as the legal heirs of the testator.

4. Mr.R.Baskaran, one of the attesting witnesses, was examined as P.W.2. He deposed that the testator was a family friend. He further deposed that the Will was executed in his presence and in the presence of the other attesting witness, one Mr.M.Krishnamurthy, and that the testator was in a sound and disposing state of mind when the Will was executed.



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5. Based on the assertions in the petition and the evidence adduced in support thereof, the petitioner is entitled to the relief claimed. Accordingly, O.P.No.1061 of 2019 is allowed by granting a probate to the petitioner in respect of the last Will and testament dated 18.11.2004. The probate shall have effect throughout the State of Tamil Nadu.

09.01.2023

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Index : Yes / No

Internet : Yes / No

Petitioner's witness:

P.W.1 - Mr.L.Vasudevan

P.W.2 - Mr.R.Baskaran

Documents exhibited by the petitioners:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Original Will dated 18.11.2004 executed by Mr.V.Loganathan.
Ex.P2	Computer generated death certificate of Mr.V.Loganathan.
Ex.P3	Computer generated death certificate of Indirani.
Ex.P4	Photocopy of the Sale deed dated 18.02.1993. (Compared with the Original)
Ex.P5	Affidavit of assets showing the net value of the estate as Rs.13,50,000/-.



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<i>Exhibits</i>	<i>Documents</i>
Ex.P6	Consent affidavit given by the fourth respondent.
Ex.P7	Certified copy of the Legal Heirship Certificate of Mr.V.Loganathan.



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