



O.P.No.744 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2023

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

O.P.No.744 of 2021

Mr.Varun Ramdas,
S/o.P.S.Ramdas,
Flat No.6-C, II Block,
“Madhuban Apartments”,
No.25/39, Ritherdon Road,
Vepery, Chennai-600 007.

... Petitioner

VS.

1. T.K.Ramachandran,
S/o.T.R.Krishnamurthy,
Flat No.G-2, Ground Floor,
Sivams Apartments,
Plot No.A/13, Door No.53,
Outer Circular Road,
Kilpauk Gardens,
Chennai-600 010.

2. Ms.G.Padma,
D/o. Late G.N.Ganean,
Flat No.G-2, Ground Floor,
Sivams Apartments,
Plot No.A/13, Door No.53,
Outer Circular Road,
Kilpauk Gardens,
Chennai-600 010.

3. Mr.R.Krishnamoorthy,



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S/o.K.Ramasubramanian,
Flat No.3, Sundara Vihar Apts,
New No.14, Bheemanna Garden Road,
Alwarpet, Teynampet,
Chennai-600 018.

4. Mr.Shriraam Krishnamurthy,
S/o.R.Krishnamurthy,
Flat No.3, Sundara Vihar Apts,
New No.14, Bheemanna Garden Road,
Alwarpet, Teynampet,
Chennai-600 018.

5. Mr.Arun Krishnamurthy
S/o.R.Krishnamurthy,
B-104, Sterling Sharada Nivas Apts,
6th Main, 15th Cross,
Indiranagar, 2nd Stage,
Bengaluru-560 038.

6. Mrs.T.K.Saraswathi,
W/o.P.S.Ramdas,
Flat No.6-C, II Block,
“Madhuban Apartments”,
No.25-39, Ritherdon Road,
Vepery, Chennai-600 007.

7. Krishnan Ramachandran,
S/o.T.K.Ramachandran,
309 1999 Suffolk Avenue,
Port Coquitlam BC V3B 7x7
CANADA

8. Mrs.Varsha Ramdas
W/o.Mr.Rajanand Rajmohan Rao,
224-0052, Kanagawa-Ken,
Yokohama-Shi, Kanagawa-Ku,



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Sakaecho 16*-1, Amity,
YOKOHAMA#1101 JAPAN.

... Respondents

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PRAYER: Original Petition filed under Section 222 and 276 of the Indian Succession Act XXXIX of 1925 r/w.Order XXV Rule 4 of the Original Side Rules 1956, prays that he may be allowed to prove the Will in common form and that probate thereof having effect limited to the State of Tamil Nadu may be granted to the Petitioner, Mr.Varun Ramdas, Executor of the Will dated 09.03.2011 of the deceased Smt.Radhai.

For Petitioner : Mr.T.K.Ramkumar

ORDER

The petitioner seeks a probate in respect of the last Will and testament dated 09.03.2011 of late Smt.Radhai.

2. The petitioner states that the late Smt.Radhai executed her last Will and testament on 09.03.2011. The said document was registered as document No.10 of 2011 at the office of the Sub Registrar, Periamet. The said Will was executed in the presence of the three witnesses, whose names and addresses were set out at the foot of the Will.

3. The petitioner asserts that the eighth respondent, Mrs.Varsha



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Ramdas, and, in her absence, the petitioner was named as the executor of the Will. Since the eighth respondent is currently in Japan and unable to petition this Court, the petition was filed through the other executor, Mr.Varun Ramdas.

4. The petitioner further states that all the next of kin and other persons interested have been impleaded as respondents. The son of the testatrix is arrayed as the first respondent and the daughter as the sixth respondent. Respondents 3 to 5 are the husband and children of the predeceased daughter of the testatrix, the late Lakshmi Krishnamoorthy. The second, seventh and eighth respondents are legatees under the Will.

5. In order to establish entitlement to the relief claimed, the petitioner was examined as PW1. In course of the examination-in-chief of PW1, the 14 documents listed at the foot of the order were exhibited as Exs.P1 to P14. The original registered Will is on record as Ex.P1. This document discloses that it was executed on 09.03.2011 at Chennai. Clause – 9 of the Will evidences that the executors of the Will are Ms. Varsha Ramdas and, failing her, Mr.Varun Ramdas. The Will discloses the beneficiaries. It further



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discloses that the attesting witnesses were T.K.Saraswati, P.S.Ramdas and Ramasubramanian. The death certificate of the testatrix is on record as Ex.P2. This document discloses that she died on 13.02.2021. The legal heirship certificate in respect of the testatrix is marked as Ex.P3. This document discloses the names of the first and sixth respondents as the surviving class I legal heirs of the testatrix. It further discloses the name of the late Lakshmi Krishnamoorthy, as the pre-deceased daughter of the testatrix. The consent affidavits of respondents 1 to 8 are on record as Exs.P6 to P13. In relation to the asset bequeathed under the Will and described in the schedule to the petition, the property tax receipt is on record as Ex.P4.

6. One of the attesting witnesses, P.S.Ramdas, was examined as PW2. He deposed that the testatrix was his mother-in-law. He further deposed that the Will was executed in his presence and in the presence of the other attesting witness. He further deposed that the testatrix was in a sound and disposing state of mind at the time of execution of the Will.



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7. Based on the assertions in the petition and the evidence adduced in support thereof, the petitioner is entitled to the the relief claimed.

8. Accordingly, O.P.No.744 of 2021 is allowed by granting a probate to the petitioner in respect of the last Will and testament dated 09.03.2011. Such probate shall have effect throughout the State of Tamil Nadu.

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Index : Yes

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Petitioner's witness:

P.W.1 – Mr.Varun Ramdas

P.W.2 – Mr.P.S.Ramdas

Documents exhibited by the petitioner:

<i>Exhibit No.</i>	<i>Description</i>
Ex.P1	The original registered Will dated 09.03.2011 executed by Mrs.Radhai.
Ex.P2	The computer generated death certificate of Radhai.
Ex.P3	The computer generated Legal Heirship Certificate of Radhai.
Ex.P4	The computer generated property tax receipt dated 16.05.2021.
Ex.P5	The affidavit of assets showing the net value of the estate as Rs.1,04,80,000-/-.



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<i>Exhibit No.</i>	<i>Description</i>
Ex.P6	The consent affidavit given by the 1 st respondent.
Ex.P7	The consent affidavit given by the 2 nd respondent
Ex.P8	The consent affidavit given by the 3 rd respondent.
Ex.P9	The consent affidavit given by the 4 th respondent.
Ex.P10	The consent affidavit given by the 5 th respondent.
Ex.P11	The consent affidavit given by the 6 th respondent.
Ex.P12	The consent affidavit given by the 7 th respondent.
Ex.P13	The consent affidavit given by the 8 th respondent
Ex.P14	The affidavit of attesting witness of PW2

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