



O.P.No.661 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **04.01.2023**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

O.P.No.661 of 2021

R.Balakumar

... Petitioner

VS.

Naganandhini Sureshkumar

... Respondent

PRAYER: Original Petition filed under Section 222 and 276 of the Indian Succession Act read with under Order XXV Rule 4 of the Original Side Rules 1956, prays to allow the Petitioner to prove the Will dated 28.12.2007 left by Late V.Rajamanickam in common form and that Probate thereof, to have effect throughout State of Tamil Nadu may please be granted to him.

For Petitioner : Mr.K.G.Vasudevan

ORDER

The petitioner seeks a probate in respect of the last Will and testament dated 28.12.2007 of Mr.V.Rajamanickam.



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2. The petitioner states that he is the son of the late Mr.V.Rajamanickam, who died on 25.01.2019. The said late Mr.V.Rajamanickam executed a Will on 28.12.2007 at Chennai in the presence of witnesses, whose names appear at the foot of the Will. The petitioner was named as executor in the Will. The petitioner asserts that the petitioner and the respondent are the beneficiaries under the Will. Hence, this petition.

3. In order to establish entitlement to the relief claimed in this petition, the petitioner adduced evidence. The petitioner was examined as PW1. In course of the examination-in-chief of PW1, the 12 documents listed at the foot of this order were exhibited as Exs.P1 to P12. The original registered Will dated 28.12.2007 is on record as Ex.P1. The said document discloses that the Will was executed on 28.12.2007. The document has been attested by two witnesses, namely, D.Thyagarajan and M.Vasudevan. On perusal of the Will, it appears that the beneficiaries are the petitioner and the respondent. The death certificate of the testator is on record (Ex.P2). This document discloses that he died on 25.01.2019. It also discloses his



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permanent address. The legal heirship certificate in respect of the testator is on record (Ex.P3). This document discloses the names of the petitioner and the respondent as the surviving legal heirs of the testator. The death certificate of the testator's second wife, Thilagavathy, is on record (Ex.P4). This document discloses that she died on 23.09.2003. The petitioner has asserted that the testator and late Thilagavathy did not have children and a statement to the said effect is contained in the Will. Documents evidencing the title of the testator to his estate are placed on record as Exs.P5 to P10. The consent affidavit of the respondent is on record (Ex.P12). Mr.D.Thyagarajan, one of the attesting witnesses, was examined as PW2. He deposed that the testator was his sister's husband. He also deposed that the Will was executed in his presence and in the presence of the other witness. He further deposed that the testator was in a sound and disposing state of mind at the time of execution of the Will.

4. Based on the assertions in the petition and the evidence adduced in support thereof, the petitioners are entitled to the relief claimed.



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5. Accordingly, O.P.No.661 of 2021 is allowed by granting a probate to the petitioner in respect of the last Will and testament of Mr.V.Rajamanickam. The said probate shall have effect throughout the State of Tamilnadu.

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Index : Yes

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Petitioner's witness:

P.W.1 – Mr.R.Balakumar

P.W.2 – Mr.D.Thyagarajan

Documents exhibited by the petitioner:

<i>Exhibit No.</i>	<i>Description</i>
Ex.P1	The original registered Will dated 28.12.2007 executed by Mr.V.Rajamanickam.
Ex.P2	The computer generated death certificate of Mr.V.Rajamanickam.
Ex.P3	The computer generated Legal Heirship Certificate of Mr.V.Rajamanickam.
Ex.P4	The computer generated death certificate of Mrs.Thilagavathy.
Ex.P5	The photocopy of the Sale Deed dated 13.02.1986 executed in favour of Mrs.R.Thilagavathy (Compared with the original).



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<i>Exhibit No.</i>	<i>Description</i>
Ex.P6	The photocopy of the Sale Deed dated 13.02.1986 executed in favour of Mrs.R.Thilagavathy. (Compared with the original).
Ex.P7	The photocopy of the Sale Deed dated 23.08.1995 executed in favour of Mr.V.Rajamanickam (Compared with the original).
Ex.P8	The photocopy of the Sale Deed dated 21.11.1985 executed in favour of Mrs.R.Thilagavathy (Compared with the original).
Ex.P9	The photocopy of the Sale Deed dated 18.10.1985 executed in favour of Mrs.R.Thilagavathy (Compared with the original).
Ex.P10	The photocopy of the Sale Deed dated 23.08.1995 executed in favour of Mr.V.Rajamanickam (Compared with the original).
Ex.P11	The affidavit of assets showing the net value of the estate as Rs.61,00,000/-.
Ex.P12	The consent affidavit given by the respondent.

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SENTHILKUMAR RAMAMOORTHY,J

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