



O.P.No.692 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2023

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No. 692 of 2022

T.S.Ramanujam

...

Petitioner

Vs.

1. M.R.J.Premkumar
2. M.R.Rajkumar Reddy
3. Aravind Eye Hospitals

....

Respondents

Original Petition is filed under Section 222, 255, 237 and 276 of the Indian Succession Act for issue of probate read with Order XXV Rule 4 of Original Side Rules to prove the Will in common form and that probate thereof to have effect throughout the State of Tamil Nadu, may be granted to the petitioner and limited to the properties mentioned in the affidavits of assets.

For Petitioner : Mr.S.Rajasekar

For Respondents : Mr.P.Mathivanan



O.P.No.692 of 2022

ORDER

WEB COPY

This Original Petition has been filed for issuance of Probate for the last Will and testament dated 29.10.2007 executed by Late S.P.Balakrishnan

2. The petition mentioned property belonged to one S.P.Balakrishnan by virtue of a sale deed dated 26.12.1973. The said S.P.Balakrishnan died on 05.01.2009. The wife of S.P.Balakrishnan predeceased him and the couple had no issues. The parents of the S.P.Balakrishnan also predeceased him. During his lifetime, S.P.Balakrishnan executed a registered Will dated 29.10.2007 by bequeathing the petition mentioned property in favour of the respondents who are his family friends. The petitioner has been appointed as the executor of the Will. Subsequent to the death of S.P.Balakrishnan, the petitioner had filed this petition seeking probate in respect of the Will dated 29.10.2007.

3. The petitioner was examined himself as P.W.1 and Exs.P1 to P5 were marked.

4. From the death certificate of S.P.Balakrishnan which is marked as Ex.P1, it is seen that S.P.Balakrishnan died on 29.10.2007. Ex.P2 is the



O.P.No.692 of 2022

Will dated 29.10.2007. Ex.P5 is the affidavit of assets showing the net value of the estate as Rs.4,99,80,000/-. The consent affidavits of respondents 1 and 2 are marked as Ex.P3 and P4.

5. Even though the Will consists of movable assets, this petition has been filed seeking probate only in respect of the immovable assets found in the Will.

6. The executor of the Will T.S.Ramanujam has been examined as P.W.1. In his evidence, he had stated that the first attesting witness by name V.S.Jayakumar died and the whereabouts of second attesting witness are not known. The son of V.S.Jayakumar by name V.J.Athikesavan who was examined as P.W.2 had identified the signature affixed by his father in the Will.

7. The learned counsel for the petitioner submitted that since the original Will is lost, leave is granted to mark the certified copy of the Will. In view of the non-availability of the attestors, the petitioner also sought permission of the Court to examine the person who is conversant with the signature of one of the attestors.



O.P.No.692 of 2022

8. The evidences of PW.1 and PW.2 and the documents available on record would show that the Will has been executed as per the terms of Section 63(c) of the Indian Successions Act and the same has been proved in terms of Section 69 of the Indian Evidence Act. Since the petitioner had proved the genuineness of the Will in which he had been appointed as the executor of the Will, the relief sought shall be granted.

9. In the result, the Original Petition is allowed by granting probate of the last Will and Testament dated 29.10.2007 of late S.P.Balakrishnan, to the petitioner to have effect limited throughout the State of Tamil Nadu.

07.08.2023

bkn

Internet :Yes/No

Speaking: Non speaking

Neutral:Yes/ No



O.P.No.692 of 2022

APPENDIX

Petitioner's witness:

P.W.1 – T.S.Ramanujam

P.W.2 – V.J.Athikesavan

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
P1	Computer generated death certificate of S.P.Balakrishnan
P2	Certified copy of the Will dated 29.10.2007 executed by S.P.Balakrishnan
P3	Consent affidavit given by the first respondent
P4	Consent affidavit given by the second respondent
P5	Affidavit of assets showing the net value of the estate as Rs.4,99,80,000/-
P6	Computer generated death certificate of V.S.Jayakumaran

07.08.2023

bkn



WEB COPY



O.P.No.692 of 2022

R.N.MANJULA, J.

bkn

O.P.No. 692 of 2022

07.08.2023