



O.P.No. 589 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **25.09.2023**

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA
O.P.No. 589 of 2022

Switzer Samuel Sundar

...

Petitioner

Vs.

1. Agiema Gracie Tennyson
2. Sugiema Annal Prince
3. Lite Brite
4. Minor Elijah Miracle
5. Minor Isaiah Blessing
6. Minor Elisha Victory

... Respondents

Original Petition is filed under Sections 222 and 276 of the Indian Succession Act read with Order XXV Rule 4 of the Original Side Rules, prays to prove the Will dated 19.07.2011 and registered as Document No.11/2011 on the file of the SRO, Ashok Nagar in common form, and grant probate thereof to the petitioner, to have effect throughout the State of Tamil Nadu.

For Petitioner : Mr.P.Gunaraj
For Respondents : No appearance



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ORDER

This Original Petition has been filed for issuance of Probate for the last Will and testament dated 19.07.2011 executed by Late Jeyaleela Sundar.

2. The petition mentioned immovable properties belonged to the mother of the petitioner by name Jeyaleela Sundar. The said Jeyaleela Sundar died on 24.03.2022 by leaving behind the petitioner and the respondents as her legal heirs. The petitioner is the son and the first and second respondents are the daughters of the late Jeyaleela Sundar and the respondents 3 to 6 are the legal heirs of predeceased son of Jeyaleela Sundar by name Brite Sundar. During the lifetime of Jeyaleela Sundar, she had executed a registered Will dated 19.07.2011 by bequeathing her properties detailed in the schedule in favour of her elder son namely the petitioner herein. Since her younger son Brite Sundar was no more, the testatrix had made the petitioner responsible for maintaining the family of Brite Sundar who are respondents 3 to 6. The testator had created a charitable trust by name “All Angels Educational and Charitable Trust” and she was acting as a Managing Trustee. In the Will dated 19.07.2011, the testatrix had appointed the petitioner as the Managing Trustee of the said Trust for life. Since the Will has come into effect after the death of Jeyaleela Sundar, the



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petitioner had filed this petition seeking probate in respect of the said Will.

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3. The petitioner was examined as P.W.1 and Exs.P1 to P21 were marked.

4. From Ex.P1-death certificate it is seen that Jeyaleela Sundar died on 24.03.2022. The registered will executed by Jeyaleela Sundar is available as Ex.P2. From Ex.P3-death certificate, it is seen that the younger son of Jeyaleela Sundar by name Brite Sundar predeceased her on 08.03.2020. It is seen from the legal heirship certificate of Jeyaleela Sundar that the petitioner, respondents 1 and 2 and the deceased son Brite Sundar were the only legal heirs of Jeyaleela Sundar at the time of her death. Though the respondents did not file any consent affidavit, they have not filed their objection either after receiving notice.

5. Paper publication effected in one issue of Tamil daily “Makkal Kural” on 13.05.2023 and English daily “Trinity Mirror” on 13.05.2023 did not attract any objectors.



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6. One of attestors of the Will by name S.Wilson Sundararaj has been examined as P.W.2 and he had stated in his evidence that he along with Brite Sundar were present at the time when the testatrix had signed the Will. He further stated that at the time of executing the Will, the testatrix was found to be in sound and disposing state of mind. He has further stated that himself and Brite Sundar subscribed their signature in the Will in the presence of testatrix.

7. The evidences of P.W.1 and P.W.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 68 of the Indian Evidence Act. Since the petitioner had proved the genuineness of the Will with all the relevant documents, the relief sought shall be granted.

8. In the result, the Original Petition is allowed by granting probate of the last Will and Testament dated 19.07.2011 of late Jeyaleela Sundar, to the petitioner to have effect limited throughout the State of Tamil Nadu.

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APPENDIX

Witnessed examined:

P.W.1 – Switzer Samuel Sundar

P.W.2 – S.Wilson Sundararaj

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
P1	Computer generated death certificate of Jeyaleela Sundar
P2	Original registered Will and Testament dated 19.07.2011
P3	Death certificate of Brite Sundar
P4	Legal heirship certificate of Jeyaleela Sundar
P5	Sale deed dated 29.08.2020
P6	Encumbrance certificate dated 30.08.2022
P7	Sale deed dated 29.08.2020
P8	Encumbrance certificate dated 30.08.2022
P9	Electricity card obtained in the name of Jeyaleela Sundar
P10	Metro Water Tax & Charges Receipt dated 12.07.2022
P11	Property Tax Receipt dated 12.07.2022
P12	Sale deed dated 01.09.2005
P13	Encumbrance certificate dated 30.08.2022
P14	Property Tax Receipt dated 09.04.2022
P15	Electricity card obtained in the name of Jeyaleela Sundar
P16	Metro Water Tax & Charges Receipt dated 12.07.2022
P17	Sale deed executed in the month of August 2006
P18	Encumbrance certificate dated 30.08.2022
P19	Sale deed dated 07.10.2008
P20	Encumbrance certificate dated 30.08.2022
P21	Affidavit of assets

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