



O.P.No. 45 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **08.08.2023**

CORAM

THE HONOURABLE Ms.JUSTICE **R.N.MANJULA**

O.P.No.45 of 2023

G.Anitha

... Petitioner

Vs.

A.S.Bharathi

... Respondent

PRAYER: Original Petition filed for Probate under Sections 222 and 276 of the Indian Succession Act, 1925 and Order XXV Rule 4 of the Original Side Rules, praying to permit the petitioner to prove the Will in common form and that Probate thereof limited to the State of Tamil Nadu may be granted to her.

For Petitioner : Mr.R.Krishna Prasad
for M/s.Sarvabhauman Associates.

ORDER

This Original Petition has been filed for issuance of Probate for the last Will and Testament dated 06.04.2000 executed by Late Kanthammal, who died on 09.07.2012.



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2. The petition mentioned property described in the affidavit of assets was originally purchased by one Kanthammal by virtue of the Sale Deed dated 18.04.1985. The said Kanthammal constructed a house in the said property. The said Kanthammal died on 09.07.2012. During her lifetime, the said Kanthammal executed a registered Will on 06.04.2000 by bequeathing the petition mentioned property in favour of her grand daughter Anitha, who is the petitioner herein. The respondent is the mother of the petitioner and the daughter of the testator. The legal heirship certificate, which is marked as Ex.P5 would show that the respondent alone is the surviving legal heir of the testator Kanthammal. The husband of the testator G.N.Rangappa Naidu also died on 19.01.1972 and his death certificate has been marked as Ex.P6. The consent affidavit given by the respondent in favour of the petitioner has been marked as Ex.P8.

3. The petitioner examined herself as PW.1, the attestors of the Will have been examined as PW2 & PW3 and the following documents were marked:-

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Photo copy of the sale deed dated 18.04.1985 in favour of Mrs.Kanthammal (compared with the original)



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<i>Exhibits</i>	<i>Documents</i>
Ex.P2	Original planning permission dated 24.04.1990 issued by Ambattur Municipality to Mrs.Kanthammal.
Ex.P3	Original Will dated 06.04.2000 executed by Mrs.Kanthammal
Ex.P4	Computer generated death certificate of G.Kanthammal.
Ex.P5	Original legal heirship certificate of Kanthammal
Ex.P6	Original death certificate of G.N.Rangappa Naidu.
Ex.P7	The affidavit of assets showing the net value of the estate as Rs.3,25,00,000/-.
Ex.P8	Consent affidavit given by the respondent herein.

4. The original Will of the testator is marked as Ex.P3; the death certificate of the testator is marked as Ex.P4; the legal heir certificate of the deceased is produced as Ex.P5.

5. PW2 & PW3, who are the attesting witnesses of the Will have stated in their evidence that they had attested the Will in the presence of each other. They also stated that they had seen the testator signing the Will in their presence and at the time of execution of the Will, the testator was in a sound and disposing state of mind.



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6. The evidences of PW.1 to PW.3 and the documents available on record would show that the Will has been executed as per the terms of Sec.63(c) of the Indian Successions Act. With the evidence of the attestors, the execution of the Will has also been proved in accordance with Sec.68 of the Indian Evidence Act-1872. The respondent has given consent to grant Probate in the name of the petitioner. Since the petitioner proved the genuineness of the Will in which she had been appointed as executor of the Will, the relief sought shall be granted.

7. In the result, the Original Petition is allowed by granting a Probate of the last Will and Testament dated 06.04.2000 of late Mrs.Kanthammal, the testator to the petitioner to have effect limited to the State of Tamil Nadu.

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Index :Yes/No

Speaking Order: Yes/No

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