



O.P.No.597 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **02.06.2023**

CORAM

THE HONOURABLE **MR.JUSTICE K.KUMARESH BABU**
O.P.No.597 of 2022

Franklin Rajkumar A ... Petitioner

Vs

A.Ephsy Premkumari ... Respondent

PRAYER: Original Petition filed for Testamentary and Intestate under Section 222 and 276 of Indian Succession Act, 1925 under Order XXV Rule 4 of Original Side Rules, prays that the petitioner may be permitted to prove the Will in common form and that probate therefore limited to the State of Tamil Nadu may be granted to him.

For Petitioner : M/s.Suchit Anant Palande

For Respondent : Mr.R.Prabuvan

ORDER

This Original Petition has been filed for issuance of probate for the last Will and testament dated 06.02.2015, executed by Late S.N.Sundari, who died on 13.06.2015. The petitioner and the respondent are the sister's children of the testatrix. The petitioner is appointed as the executor under the Will. The petitioner and the respondent are the beneficiaries under the Will. The respondent has filed her consent affidavit expressing her consent



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for grant of probate.

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2. The petitioner submits that the testator was married to one G.Neelakantan Iyer @ G.N.Iyer, and on 20.12.1999, a decree for divorce was obtained in F.C.O.P.No.655 of 1999, on the file of II Additional Family Court, Chennai, and the testatrix has no issues out of the wedlock. The parents of the testatrix has pre-deceased, and the testator has no other legal heirs other than the petitioner and the respondent, as her sister's son and daughter. The petitioner further states that it was the petitioner and the respondent who has taken care of the testatrix during her last times.

3. The petitioner has been examined as P.W.1. He has produced the death certificate of the testatrix S.N.Sundari, which was marked as Ex.P2. The Original registered Will and Testament dated 06.02.2015, has been marked as Ex.P1. The photocopy of the divorce order passed in F.C.O.P.No.655 of 1999, is marked as Ex.P7. The consent affidavit of the respondent has been marked as Ex.P8.

4. One Mr.A.Ranjith Kumar, who is the first attesting witness to the said Will has been examined as P.W.2. He has spoken about the execution of the Will by the testatrix and its attestation by himself. One Mr.D.Vinoth



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Kumar, who is the second attesting witness to the said Will has been examined as P.W.3. He has also spoken about the execution of the Will by the testatrix and its attestation by himself.

5. In view of the said facts and evidence, the execution of the Will stands proved. Hence, the Original Petition is allowed by granting probate for the last will and testament dated 06.02.2015.

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Index :Yes/No

Internet: Yes/ No

Petitioners' witness:

P.W.1 —Mr.A.Franklin Rajkumar

P.W.2 – Mr.A.Ranjith Kumar

P.W.3 – Mr.M.D.Vinoth Kumar

Documents exhibited by the petitioners:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Original registered Will executed by Mrs.S.N.Sundari on 06.02.2015 and registered as document No.6 of 2015 before the Sub-Registrar office, Sembiam
Ex.P2	Computer generated death certificate of S.N.Sundari
Ex.P3	Computer generated Encumbrance certificate in respect of the property standing in the name of S.N.Sundari



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<i>Exhibits</i>	<i>Documents</i>
Ex.P4	Series 3 Nos of the name transfer certificates issued on 28.08.2015
Ex.P5	Photocopy of the petitioner's Aadhar card
Ex.P6	Photocopy of the Aadhar card of the respondent
Ex.P7	Photocopy of the divorce order passed in FCOP No.655/99 on 20.12.1999 by the Principal Judge, II Additional Family Court at Madras
Ex.P8	Consent affidavit of the respondent
Ex.P9	Affidavit of the assets showing the net value of the estate at Rs.1,27,50,000/-
Ex.P10	Proof affidavit of first attesting witness
Ex.P11	Proof affidavit of second attesting witness

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