



O.P.No.643 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **20.09.2023**

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No.643 of 2022

Mr.B.Jayaseelan

... Petitioner

Vs.

1.Mrs.Vanmathi

2.Mr.T.Mathivanan

... Respondents

PRAYER : Original Petition is filed under Sections 222 and 276 of the Indian Succession Act and under Order XXV Rule 4 of the High Court Original Side Rules, praying to allow the petitioner to prove the Will of the deceased G.Thiagarajan @ Tiruchi Thiagarajan and Shanthi Thiagarajan in common form and grant Probate thereof to have effect throughout the State of Tamilnadu.

For Petitioner : Mr.P.Sreenivasulu

For Respondents : Mr.S.Srinivasa Narayanan for R2

No appearance for R1

ORDER

This Original Petition has been filed for issuance of Probate for the last Will and testament dated 11.02.2002 executed by Late G.Thiagarajan @ Tiruchi Thiagarajan and Shanthi Thiagarajan who died on 19.05.2002 and 25.03.2018 respectively.



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2. The petition mentioned property is the property jointly purchased by the parents of the respondents. The father of the respondents G.Thiagarajan @ Tiruchi Thiagarajan died on 19.05.2002 and the mother of the respondents Shanthi Thiagarajan died on 25.03.2018. During the life time of Thiagarajan and Shanthi Thiagarajan, they executed a registered Will dated 11.02.2002 by bequeathing the petition mentioned property in favour of the first respondent by appointing the petitioner as the Executor. The second respondent is the son of the testator and testatrix and the brother of the first respondent. Since Thiagarajan and Shanthi Thiagarajan died, the Will came into effect. Therefore, the executor of the Will has filed this Petition seeking Probate.

3. The petitioner examined himself as P.W.1. Exhibits P1 to P5 were marked.

4. Ex.P2 is the death certificate of Thiagarajan. Ex.P3 is the death certificate of Shanthi Thiagarajan. The Will dated 11.02.2002 has been marked as Ex.P1.

5. Since one of the attesting witnesses of the Will is no more and the whereabouts of the other attesting witness is not known, Mr.B.Baskaran was examined as P.W.2. He stated in his evidence that he was present at the time



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when the Will was executed by Thiagarajan and Shanthi Thiagarajan and he had seen both of them affixing their signatures in the Will. He also stated that the two attesting witnesses have also affixed their signatures in the Will. He is able to identify the signatures of the attesting witnesses.

6. The evidence 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 its genuineness has been proved in accordance with Section 69 of the Indian Evidence Act, 1872. Since the petitioner proved the genuineness of the Will through which he 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 11.02.2002 of late G.Thiagarajan @ Tiruchi Thiagarajan and Shanthi Thiagarajan, to the petitioner to have effect limited to the State of Tamilnadu.

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Index :Yes/No



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APPENDIX

Petitioner's witnesses:

P.W.1 – Mr.B.Jayaseelan
P.W.2 – Mr.B.Baskaran

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	The original Will and Testament dated 11.02.2002 executed by G.Thiagarajan @ Tiruchi Thiagarajan and Shanthi Thiagarajan.
Ex.P2	The original death certificate of Mr.G.Thiagarajan.
Ex.P3	The computer generated death certificate of Mrs.T.Shanthi.
Ex.P4	The valuation report dated 01.04.2019.
Ex.P5	The affidavit of assets showing the net value of the estate as Rs.27,80,000/-.

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R.N.MANJULA.J.,

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