



[O.P.NO.446 OF 2023](#)

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N.SATHISH KUMAR, J.

This Original Petition has been filed under Sections 222 and 276 of the Indian Succession Act, 1925, read with Order XXV Rule 4 of the Madras High Court Original Side Rules, for grant of probate in respect of the last Will and Testament of the deceased Mr.N.Seetharaman.

2.Petitioner and respondents 1 and 2 are the sons of the deceased Mr.N.Seetharaman and respondents 3 to 5 are the daughters of the deceased. The deceased N.Seetharaman has executed a Will dated 13.07.2007, which was registered as Document No.48 of 2007 on the file of Joint I Sub Registrar (District Registrar Cadre) Chennai North. It is the case of the petitioner that his father executed a Will dated 13.07.2007 bequeathing 3 Flats to three sons, namely, the petitioner and the respondents 2 and 3. According to the petitioner, as per the Will, Flat No.C5 was bequeathed in favour of the petitioner and Flat No.C1 was bequeathed in favour of the first respondent and Flat No.C3 was bequeathed in favour of the second



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respondent. As far as Flat No.C3 is concerned, the same was settled in favour of the third respondent through settlement deed dated 12.07.2017, which was registered as Document No.2730 of 2017 on the file of Sub Registrar, Kodambakkam. Hence, it is the contention of the petitioner that the bequeath in respect of two flats in favour of the petitioner and the first respondent is valid and hence, the petitioner seeks grant of probate of the Will.

3.The petitioner examined himself as P.W.1 and he has stated about the execution of the Will by the deceased and marked Exs-P.1 to P5. Ex-P.1 is the original Will dated 13.07.2007 executed by the deceased; Ex-P.2 is the death certificate of the deceased; Ex-P.3 is filed to show that the wife of the deceased pre-deceased him; Ex-P.4 is filed to show that the testator has settled a portion of the property in favour of the third respondent, which was earlier bequeathed to the second respondent under the Will; Ex-P.5 is the affidavit of assets showing the net value of the estate as Rs.59,80,000/-. The respondents 1 to 5 have filed counter affidavits.



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4.Mr.A.P.Arumugham, one of the attesting witnesses of the Will has been examined as P.W.2. He has stated about the execution as well as the attestation of the Will by the said Mr.N.Seetharaman, while he was in sound state of mind in the presence of Mr.A.Gerald Ebenezer. At the request of the testator, P.W.2 signed as second attester to the Will. Ex-P.6 is the affidavit filed by P.W.2 in this regard. The evidence of attesting witness not only prove the execution but also attestation of the Will and there is no other material to suspect the Will.

5.In view of the above facts, I am of the view that the petitioner has proved the execution and attestation of the Will. Hence, the petitioner is entitled for the issuance of probate in favour of the petitioner.

6.The Original Petition is ordered. Grant probate of the Will in respect of the petitioner.

20.12.2023

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