



WEB COPY



O.P.No.8 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2023

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

O.P.No.8 of 2022

S.Radhika

... Petitioner

Vs

1.S.Somasundaram

2.S.Veerabadran

3.S.Madhava

4.S.Ashok

... Respondents

PRAYER: Original Petition filed under Sections 222 and 276 of the Indian Succession Act, 1925 r/w.Order XXV Rule 4 of O.S.Rules to allow/ permit the petitioner S.Radhika to prove the aforesaid Will dated 01.10.2015 (unregistered) of J.Hemalatha, in-common form and that Probate thereof, to have the effect limited to the State of Tamil Nadu.

For Petitioner : Mr.G.B.Sabari Das

ORDER

The application has been filed seeking to probate the Will dated 01.10.2015 (unregistered) of J.Hemalatha.



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Originally the notice was served on the 2nd and 3rd respondents on 25.03.2020. In spite of receipt of the notice to the 2nd defendant, he neither appeared in person before this Court nor through his counsel. Notice on 1st and 4th respondents was directed to be carried out by way of substituted service. The service of notice to the 1st and 4th respondents was also recorded to be completed based upon the paper publication. No one has entered appearance.

3. Eventhough, the 3rd respondent did not choose to appear in person or through his counsel, he being one of the attesting witness has examined himself as PW2. Petitioner has examined herself as PW1 and had marked the Exs.P1 to P12. Ex.P2 is the photo copy of the Sale Deed dated 18.11.2009 executed in favour of the testatrix. The Will executed by the testatrix dated 01.10.2015 has been marked as Ex.P3. Ex.P4 is the death certificate of the testatrix. Ex.P5 to P10 are the death certificates of the family members namely her brother and her brother's family members. Under Ex.P3, the petitioner has been appointed as the executor of the Will executed by the testatrix. The 3rd respondent was examined as PW2 and he



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had deposed that he is the 1st attesting witness of the Will executed by the testatrix. He in clear terms has deposed that the signature in the Will is that of the testatrix and that she has executed Ex.P3.

4.In view of the aforesaid evidences before this Court, the Will dated 01.10.2015 marked as Ex.P3 is proved. Hence, the Original Petition is allowed granting Probate for the last Will and Testament dated 01.10.2015.

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Index : Yes / No

Petitioner's witness:

P.W.1 - Ms.S.Radhika

P.W.2 – Mr.S.Madhava

Documents exhibited by the petitioners:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Photocopy of petitioner's Aadhaar card
Ex.P2	Photocopy of the Sale Deed dated 18.11.2009 executed in favour of Mrs.J.Hemalatha
Ex.P3	Original unregistered Will and Testament dated 01.10.2015 executed by Mrs.J.Hemalatha
Ex.P4	Computer generated death certificate of Mrs.Hemalatha
Ex.P5	Computer generated death certificate of Mr.J.Sankaraiah
Ex.P6	Computer generated death certificate of Mr.Bhaskar



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<i>Exhibits</i>	<i>Documents</i>
Ex.P7	Computer generated death certificate of Mrs.S.Hymavathy
Ex.P8	Computer generated death certificate of Mr.S.Shanmuga Sundaram
Ex.P9	Computer generated death certificate of Mr.S.Chengalvarayan
Ex.P10	Computer generated death certificate of Mrs.S.Prema
Ex.P.11	Photocopy of the family card of Mrs.Hemalatha
Ex.P12	Affidavit of assets showing the net value of the estate as Rs.24,00,000/-

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