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O.P.No.721 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:20.04.2023

CORAM

THE HONOURABLE **MR.JUSTICE K.KUMARESH BABU**
O.P.No.721 of 2022

1.Venkatakrishnan Viswanathan
2.Narayanan Viswanathan

... Petitioners

PRAYER: Original Petition filed for Testamentary and Intestate under Section 222, 255 and 276 of Indian Succession Act, 1925 under Order XXV Rule 4 of Original Side Rules, prays to prove the Will in common form and that the Probate thereof.

For Petitioners : Mr.Karthik

ORDER

This Original Petition has been filed for issuance of probate for the last Will and testament dated 17.12.2014 executed by Late Naranayanaswami Viswanathan, who died on 23.02.2021. The petitioners are the sons of the testator, and they are appointed as the joint sole executors and they are the beneficiaries under the said Will.

2. The petitioners submits that the testator has migrated to USA in 1990 and had been residing since then, both their parents had died on



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23.02.2021. The petitioners are the only sons of the testator and they are the citizens of USA and are ordinarily resident there. So the petitioners were unable to get a legal heirship certificate. The petitioners further state that they have obtained a certificate from the notary certifying that the petitioners are the legal heirs of Naranayanaswami Viswanathan and Sushila Viswanathan (mother of the petitioner), which is marked as Ex.P4.

3. The first petitioner has been examined as P.W.1. He has produced the death certificates of the testator Naranayanaswami Viswanathan and Sushila Viswanathan, as Exs.P1 and P2. The Original unregistered Will and Testament dated 17.12.2014, has been marked as Ex.P3.

4. One Mr.P.Rajesh, who is 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 testator and its attestation by himself and Mr.S.Indrajith in Chennai. One Shreeya Jayaraman, niece of the testator has been examined as P.W.3. She has stated in her proof affidavit that the testator had migrated to USA and had only two sons, they are the petitioners herein and both the testator and his wife died on 23.02.2021, leaving behind the petitioners as their Class-I legal heirs.



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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 17.12.2014.

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Index :Yes/No

Speaking: Yes/ No

Neutral Citation: Yes/ No

Petitioner's witness:

P.W.1 – Mr.Venkatakrishnan

P.W.2 – Mr.P.Rajesh

P.W.3 – Ms.shreeya Jayaraman

Documents exhibited by the petitioner:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Original death certificate of Mr.Narayanaswami Viswanathan
Ex.P2	Original death certificate of Mrs.Sushila Viswanathan
Ex.P3	Original unregistered Will of Narayanswami Viswanathan dated 17.12.2014
Ex.P4	Certificate of the notary dated 27.03.2022 certifying that the petitioners are the legal heirs of Narayanswami Viswanathan and Sushila Viswanathan. (this is marked subject to its admissibility, proof an relevancy)
Ex.P5	Affidavit of one Vanaja Narayanaswami stating that the petitioners are the legal heirs of Narayanswami Viswanathan



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<i>Exhibits</i>	<i>Documents</i>
	and Sushila Viswanathan. (this is marked subject to its admissibility, proof an relevancy)
Ex.P6	Affidavit of one Dr.D.Ananthapadmanabhan stating that the petitioners are the legal heirs of Narayanaswami Viswanathan and Sushila Viswanathan
Ex.P7	Affidavit of assets showing the net value of the estate as Rs.74,80,000/-
Ex.P8	Affidavit of the attesting witness PW2
Ex.P9	Affidavit of the third party PW3

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