



**O.P.No.798 of 2022**

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**N.SATHISH KUMAR, J.**

This petition has been filed under Sections 222 and 276 of the Indian Succession Act, 1925 read with Order XXV, Rule 4 of O.S. Rules, for the grant of Probate in respect of the last Will and Testament of the deceased T.K.Subramaniam, who is the uncle of the first respondent.

2. The case of the petitioner is that T.K.Subramaniam has left the Will dated 26.04.1991 bequeathing the property in favour of the respondents. The petitioner was appointed as the executor of the Will. Hence, the present petition has been filed for grant of probate. The amount of assets which is likely to come into the petitioner's hands does not exceed in the aggregate sum of Rs.10,20,000/- and the net amount of the assets, after deducting all items which the petitioner is by law allowed to deduct is of the value of Rs.10,00,000/-. The petitioner has impleaded all the kin of the deceased and there is no other person interested to be impleaded. The petitioner undertakes to duly administer the property and credits of the



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deceased T.K.Subramaniam and in any way concerning the Will by paying first his debts and then the legacies therein bequeathed so far as the assets will extend and to make a full and true inventory thereof to the Court within six months from the date of grant of Probate to the petitioner and also to render to this Court a true account of the said property and credits within one year from the said date.

3. The petitioner has examined himself as P.W.1 and Ex.P.1 to Ex.P.7 have been marked.

4. P.W.1 in his evidence had narrated the averments made in the petition stating that the petitioner has filed this petition for the grant of probate in his favour in respect of the last Will and the original Will dated 26.04.1991. The original Will dated 26.04.1991 has been marked as Ex.P1. Ex.P2-Death Certificate is filed to prove the death of the testator T.K.Subramaniam. Exs.P3 and P4 were filed to prove the death of brothers of testator. Consent affidavits given by first and second respondents have been marked as Ex.P5 and Ex.P6 respectively. Ex.P.7 is the affidavit assets of showing the net value of the estate of the deceased as Rs.10,00,000/-.



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5. One of the attestors of the Will dated 26.04.1991 viz., Mr.G.Deivasigamani, second attesting witness, was examined as P.W.2. In his evidence, P.W.2 has stated that the testator executed his last Will and Testament on 26.04.1991 in his presence and in the presence of one T.K.Sathyamurthy. At the request of the testator, P.W.2 subscribed his signature as second attesting witness along with the said T.K.Sathyamurthy, who attested the Will as the first attesting witness in the presence of the testator. It is also the evidence of PW2 that while executing the Will, the testator was in a sound and disposing state of mind and in his presence the attesting witnesses subscribed their signature in the Will. The evidence of P.W.2 not only proves execution but also attestation of the Will and there is no other materials to suspect the Will.

6. 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.



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

10.10.2023

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