



WEB COPY



O.P.No.112 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **21.09.2023**

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No.112 of 2023

Dr.S.Rajasundaram

... Petitioner

Vs.

1.Mr.S.Subbusundaram

2.Mr.S.Muthusundaram

3.Mr.S.Nagasundaram

4.Mr.S.Palanisundaram

5.Mr.S.Annasundaram

6.Dr.S.Murugusundaram

... 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 S.P.Sundaram in common form and grant Probate thereof to have effect throughout the State of Tamilnadu.

For Petitioner : Ms.R.V.Gayatri

For Respondents : Mr.P.M.Sachin for R2 to R6

No appearance for R1

ORDER

This Original Petition has been filed for issuance of Probate for the last Will and testament dated 20.09.2019 executed by Late S.P.Sundaram who died on 10.05.2021.



O.P.No.112 of 2023

WEB COURT

2. The petition mentioned property was originally owned by S.P.Sundaram who is the father of the petitioner and the respondents. The said S.P.Sundaram died on 10.05.2021. During his life time, he executed a Will dated 20.09.2019 by bequeathing the petition mentioned property in favour of his sons viz., the petitioner and the respondents by appointing the petitioner as the executor of the Will. Since S.P.Sundaram died, the Will came into effect. Therefore, the petitioner has filed this Petition.

3. The petitioner examined himself as P.W.1 and Exhibits P1 to P10 were marked. One of the attestors of the Will has been examined as P.W.2.

4. Ex.P1 is the original Will dated 20.09.2019 executed by S.P.Sundaram. Ex.P2 is the death certificate of S.P.Sundaram. Ex.P4 legal heir certificate would show that the petitioner and the respondents are the only surviving legal heirs of the deceased. Ex.P5 to Ex.P9 are the consent affidavits filed by the respondents 2 to 6.

5. One of the attesting witnesses of the Will has been examined as P.W.2 and he has stated in his evidence that he was present along with the other attesting witness V.Srinivasan at the time when the testator had



O.P.No.112 of 2023

executed the Will. He stated that he had seen the testator signing the Will after it was executed. He further stated that the testator was in a sound disposing state of mind at the time when the Will was executed and that he affixed his signature along with the other attester in the Will and stood as one of the 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 68 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 20.09.2019 of late S.P.Sundaram, the testator, to the petitioner to have effect limited to the State of Tamilnadu.

21.09.2023

gsk
Index :Yes/No



O.P.No.112 of 2023

APPENDIX

Petitioner's witnesses:

P.W.1 – Dr.S.Rajasundaram

P.W.2 – Mr.M.Kalaivanan

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	The original Will an Testament dated 20.09.2019 executed by S.P.Sundaram.
Ex.P2	The computer generated death certificate of S.P.Sundaram.
Ex.P3	The original death certificate of Mrs.S.Nagarathinam.
Ex.P4	The computer generated legal heir certificate of S.P.Sundaram.
Ex.P5	The consent affidavit given by the 2 nd respondent.
Ex.P6	The consent affidavit given by the 3 rd respondent.
Ex.P7	The consent affidavit given by the 4 th respondent.
Ex.P8	The consent affidavit given by the 5 th respondent.
Ex.P9	The consent affidavit given by the 6 th respondent.
Ex.P10	The affidavit of assets showing the net value of the estate as Rs.6,25,00,000/-.

21.09.2023

gsk



WEB COPY



O.P.No.112 of 2023

R.N.MANJULA.J.,

gsk

O.P.No.112 of 2023

21.09.2023