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O.P.No.959 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.06.2023

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

O.P.No.959 of 2018

M.Sumathi

... Petitioner

Vs.

- 1.Sathyavani
- 2.Akila Devi
- 3.Isai Vani
- 4.Pakina Devi
- 5.Ilakiya
- 6.B.Manikandan
- 7.M.Mohan
- 8.Devi
- 9.K.Karlaskar
- 10.Nathiya
- 11.Anu
- 12.M.Rukmani
- 13.M.Kasturi
- 14.M.Ananda
- 15.M.Lakshmi

... Respondents

Prayer: Original Petition filed for Probate under Section 222 and 276 of Indian Succession Act XXXIX of 1925 r/w Order XXV Rule 4 of Original Side Rules, petitioner prays that she may be allowed to prove the Will in common form and that probate thereof.

For Petitioner : Mr. K.Manimaran

<https://www.mhc.tn.gov.in/judis>



O.P.No.959 of 2016

For Respondents : No Appearance

ORDER

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This Original Petition has been filed for issuance of probate for the last Will and testament dated 30.08.2013 executed by Late M.Devaki, who died on 31.08.2013. The petitioner, 12th to 15th respondents are the daughters, 7th respondent is the son, 1st and 8th respondents are the daughters-in-laws, 2nd to 5th, 10th and 11th respondents are the grand daughters, 6th and 9th respondents are the grand sons of the testatrix. The petitioner is appointed as the executor under the Will, and she is the sole beneficiary under the will.

2. The petitioner has been examined as P.W.1. She has produced the death certificates of the testatrix M.Devaki and C.Munusamy (husband of the Testatrix) as Exs.P9 and P4 respectively. The Original unregistered Will and Testament dated 30.08.2013, has been produced as Ex.P1. Despite the notice served had duly received by the respondents 1 to 3, 5, 8 to 10, none has chosen to appear before this court either in person or through their counsels. The notice served to respondents 4 and 6 were returned as “*not residing in the address*”. The notice served to respondent 11 were returned as “*no such person*”. Pursuant to the general publications made any objections have not been received from the respondents herein or from any other person.



O.P.No.959 of 2013

3.]One Mr.Radhakrishnan, has been examined as P.W.2, who is the first attesting witness to the said Will. He has spoken about the execution of the Will by the testatrix and its attestation by himself and Mr.R.Jayakumar. One Mrs.H.Bhuvaneshwari, was examined as P.W.3, she has spoken about the execution of the Will by the testatrix, as this third party have been residing next to the testatrix in Ekangipuram. The advocate commissioner who attested the Will was examined as P.W.4, he has spoken that the testatrix has approached him for attesting the Will executed in favour of the petitioner and after conforming with the advocate who drafted the Will, he has attested the same.

4. 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 30.08.2013.

02.06.2023

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Index :Yes/No

Internet: Yes/ No

Petitioner's witness:

P.W.1- Mrs.M.Sumathi



O.P.No.959 of 2016

P.W.2- Mr.Radhakrishnan

P.W.3- Mrs.H.Buvaneshwari

P.W.4- Mr.S.N.Narasimhulu

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Original Will dated 30.08.2013 executed by Mrs.Devaki , which has been attested by 1.Mr.P.Radhakrishnan & 2.Mr.r.Jayakumar
Ex.P2	The computer generated death certificate of Periasamy, who died on 18.08.1970
Ex.P3	The computer generated death certificate of Pappammal, who died on 20.09.1981
Ex.P4	Photocopy of the death certificate of C.Munuswamy, who died on 20.11.1985
Ex.P5	Photocopy of the family card for the period 2005-2009 bearing number 01/G/0745302
Ex.P6	Photocopy of the voter ID card of Sumathi bearing number FBC3151123
Ex.P7	The computer generated death certificate of C.M.Karunakaran, who died on 27.04.2008
Ex.P8	Photocopy of the death certificate of Bakthavachalam, who died on 21.12.2009
Ex.P9	The computer generated death certificate of M.Devaki, who died on 31.08.2013
Ex.P10	Photocopy of the Aadhaar card of S.Sumathi bearing number 6640 8122 1522
Ex.P11	Photocopy of the legal heirship certificate dated 08.10.2014 in respect of M.Devaki
Ex.P12	Photocopy of the provisional notice in respect of property



O.P.No.959 of 2018

<i>Exhibits</i>	<i>Documents</i>
	tax, dated 14.05.2018
Ex.P13	The computer generated property tax receipt dated 25.05.2018, standing in the name of M.Devaki
Ex.P14	Affidavit of assets showing the net value of the estate as Rs.9,90,000/-
Ex.P15	Proof affidavit of the first attesting witness
Ex.P16	Legal notice dated 15.12.2022 with postal receipt and A/D

02.06.2023

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O.P.No.959 of 2018

K.KUMARESH BABU,J.

gba

O.P.No.959 of 2018

02.06.2023