



WEB COPY

O.P.No.814 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.06.2023

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

O.P.No.814 of 2019

V.Chandrasekaran

... Petitioner

Vs.

1.V.Devaki(deceased)

(1st respondent death recorded in Memo dated 07.01.2021
in Memo D.No.21264/ 2021 and 2nd and 3rd respondents and petitioner are
recognised as legal representatives of the deceased 1st respondent)

2.V.Ethiraj

3.S.Pushpa

... Respondents

Prayer: Original Petition filed for grant of 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 he may be permitted to prove the Will in common form and that probate thereof.

For Petitioner : M/s M.A.Lakshmipathi

For Respondents : No Appearance

ORDER

This Original Petition has been filed for issuance of probate for the last Will and testament dated 19.10.2011, executed by Late



K.Venkatesulu, who died on 21.10.2011. The petitioner and the second respondent are the sons, the first respondent is the wife (now deceased) and the third respondent is the daughter of the testator. The petitioner is appointed as the executor under the Will. The petitioner and the second respondent are the beneficiaries under the Will. The respondents has filed their consent affidavit expressing their consent for grant of probate.

2. The petitioner has been examined as P.W.1. He has produced the death certificate of the testator K.Venkatesulu, as Ex.P2. The Original Will and Testament dated 19.10.2011, has been marked as Ex.P1. The legal heirship certificate of the testator is produced as Ex.P3. A perusal of Ex.P3 shows that the petitioner and the respondents are the only Class-I legal heir of the testator. The joint consent affidavit of the respondents has been marked as Ex.P4.

3. One Mr.D.Gokulakrishnan, who is the second 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 the first attesting witness Mr.S.Babu.



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4. In view of the said evidence, the execution of the Will stands proved. Hence, the Original Petition is allowed by granting probate for the last will and testament dated 19.10.2011.

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Index :Yes/No

Internet: Yes/ No

Petitioner's witness:

P.W.1 – V.Chandrasekaran

P.W.2 – D.Gokulakrishnan

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Original Will dated 19.10.2011 executed by K.Venkatesalu
Ex.P2	The computer generated death certificate of K.Venkatesalu
Ex.P3	Photocopy of the Legal Heirship certificate dated 10.12.2013 of K.Venkatesalu
Ex.P4	Joint consent affidavit given by the respondents 1 to 3
Ex.P5	Affidavit of assets showing the net value of the estate as Rs.2,98,000/-
Ex.P6	Proof affidavit of the second attesting witness

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K.KUMARESH BABU,J.



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