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O.P.No. 132 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2023

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No. 132 of 2022

B.Rajeswar

...

Petitioner

Vs.

1. Sudha Shankaran
2. Chandra Sundararaman
3. Nalini Rajagopal

... Respondents

Original Petition filed for under Section 222 and 276 of the Indian Succession Act (XXXIX of 1925) read with Order XXV Rule 4 of the High Court Original Side rules, 1956 to allow to prove the will in common form and that probate thereof, to have effect throughout the State of Tamil Nadu.

For Petitioner : Ms.Shobana Ramasubramaniam

For Respondents : Ms.Rita Chandrasekar

ORDER

This Original Petition has been filed for issuance of Probate for the last Will and testament dated 10.08.2017 executed by late Vanaja Rameseshan.

2. The petition mentioned properties originally belonged to one



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Vanaja Rameseshan by virtue of a sale deed dated 14.12.1983. During her lifetime, Vanaja Rameseshan executed an unregistered Will dated 10.08.2017 by bequeathing the property in favour of her sister's children who are the respondents herein and the petitioner who is the brother's son of the testator has been appointed as the executor of the Will. Vanaja Rameseshan remained unmarried and her parents predeceased her. She died on 18.01.2018 and thereafter the Will came into effect.

3. The petitioner examined himself as P.W.1 and one of the attestor of the Will by name Mr.Shalien Merchantand has been examined as P.W.2 and the following documents have been marked:

<i>Exhibits</i>	<i>Documents</i>
P1	Photocopy of the sale deed dated 14.12.1983 executed in favour of Mrs.Vanaja Ramaseshan (compared with the original)
P2	Original Construction Agreement dated 14.12.1983 between Mrs.Vanaja Ramaseshan and Kalpataru Associates.
P3	Original unregistered Will dated 10.08.2017 executed by Mrs.Vanaja Ramaseshan
P4	Computer generated death certificate of Mrs.Vanaja Ramaseshan
P5	Affidavit of assets showing the net value of the estate as Rs.1,00,20,000/-



<i>Exhibits</i>	<i>Documents</i>
P6	Affidavit of P.W.2

4. The unregistered Will that has been executed by the testator on 10.08.2017 is marked as Ex.P3. The copy of the sale deed in respect of the petition mentioned property belonging to Vanaja Rameseshan is marked as Ex.P1, after comparing it with the original. One of the attestors of the Will by name Shalien Merchant was examined as P.W.2 and he has stated in his evidence that the testator had executed the Will in his presence and he is the first attesor who had affixed his signature along with his wife Kiran Merchant who stood as the second attesor. He further stated that he has seen the testator signing the Will in his presence and at the time of executing the Will the testator was in sound and disposing state of mind.

5. Excepting the respondents, no other legal heirs of the deceased is available and no one has raised any objection so far. The evidences of PW.1 and PW.2 and the documents available on record would show that the Will has been executed in terms of Section 63(c) of the Indian Succession Act and the same has also been proved in terms of Section 68 of the Indian Evidence Act.



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6. Since the petitioner proved the genuineness of the Will in 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 probate of the last Will and Testament of late Vanaja Ramasheshan dated 10.08.2017 to the petitioner to have effect limited to the State of Tamil Nadu.

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Index :Yes/No



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Witnesses examined:

P.W.1: B.Rajeswar

P.W.2: Shalien Merchant

Documents Exhibited:

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R.N.MANJULA, J.

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