



[O.P.No.306 of 2019](#)

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N.SATHISH KUMAR, J.

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This Original Petition has been filed under Sections 222 and 276 of the Indian Succession Act, 1925 r/w. Order XXV Rule 4 of the Original Side Rules to permit the petitioner to prove the Will in common form and that probate may be granted thereof having effect limited to the State of Tamil Nadu.

2. Heard the learned counsel for the petitioner as well as the second respondent. Despite service of notice, none appears on behalf of the second respondent.

3. The petitioner, who being one of the executor of the Will filed this Petition for probate. The first respondent is the son of the deceased Radha Venkataraman and stated to be suffering from Schizophrenia. After the demise of the said Radha Venkataraman, he is under the care of the petitioner. The property originally owned by the deceased Radha Venkataraman. She died on 24.01.2015 and her husband also pre- deceased her. She executed the Will dated 12.12.2014. The first respondent is the son of the testator and the petitioner herein being one of the executor of the Will, filed this



O.P.No.306 of 2019

petition.

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4. The petitioner examined herself as P.W.1 and Exs.P1 to P16 were marked. One of the attesting witness is examined as P.W.2 Ex.P1 is the death certificate of the testatrix. Ex.P2 is the registered Will dated 12.12.2014. Exs.P3 and P4 were filed to prove the title of the testatrix. Exs.P5 to P14 were filed to prove the nature of the deposits made by the testatrix. Ex.P15 is the copy of the locker agreement of the deceased with the Bank of India, Bharathiar University Branch, Coimbatore and Ex.P16 is the copy of the petition under the Mental Health Act filed by the deceased before this Court in O.P.Diary No.46292 of 2014. One of the attesting witness spoken about the Will and stated that the deceased Radha Venkataraman was in a sound, disposing state of mind while executing the Will. Her evidence not only proves the execution of the Will but also confirmed that it is a registered Will, which has been executed for the very reason that the entire property should be utilized for her son, who is suffering from Schizophrenia. The appointment of the executor was clearly explained in the Will itself. Therefore, the Will is genuinely explained by the mother/Radha Venkataraman to the benefit of her



O.P.No.306 of 2019

son, which is also established in the record.

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5. Considering the evidence of the petitioner and the attesting witness and also taking note of the fact that the Will is a registered Will and the first respondent is suffering from Schizophrenia, this Court is of the view that the Will is ordered to be issued in favour of the petitioner as the first respondent, who is suffering from such a serious mental illness cannot take care of him. This Court also appoints the petitioner, who being one of the executor of the Will as Guardian to take care of the first respondent and his property.

6. Accordingly, the Original Petition is ordered and the petitioner is granted Guardianship of "Thiru V.Vaidyanathan". It is also made clear that the petitioner shall produce the accounts once in every six months to this Court.

16.11.2023

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O.P.No.306 of 2019

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O.P.No.306 of 2019

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