



O.P.No. 1074 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2023

CORAM

**THE HONOURABLE MS.JUSTICE R.N.MANJULA**

**O.P.No. 1074 of 2018**

P.Hemalatha

...

Petitioner

Vs.

1. P.Padma (deceased)

2. P.Revathi

3. P.Vanaja

4. P.Ramakrishna

5. Nithyahasini

Rep. by father and natural guardian

P.Ramakrishna

6. P.Jasmitha Varshini

Rep. by father and natural guardian

P.Ramakrishna

7. Premkumar.K

... Respondents

(7<sup>th</sup> Respondent is impleaded as legal heir of the deceased first respondent vide order dated 13.03.2023 in A.No.1453 of 2023 in O.P.No.1074 of 2018)

Original Petition is filed under Sections 222 and 276 of the Indian Succession Act read with Order XXV Rule 4 of the Original Side Rules, prays to prove the Will dated 07.01.2015 executed by P.Guravaiah in common form and that probate thereof to have effect limited to Union of India.

For Petitioner : Mr.V.G.Suresh Kumar

For Respondents : Mr.Srinivasa Mohan for R1 to  
Mr.Veeramani for R4



O.P.No. 1074 of 2018

## ORDER

This Original Petition has been filed for issuance of Probate for the last Will and testament dated 07.01.2015 executed by Late P.Guravaiah.

2. The petition mentioned property belonged to one P.Guravaiah who is the father of the respondents 1 to 4 and grandfather of the respondents 5 and 6. The seventh respondent is the legal heir of the deceased first respondent. The said P.Guravaiah died on 14.08.2017. During his lifetime, he executed a Will by bequeathing Item '1' of the petition mentioned property in favour of the respondents 1, 2 and 4 and Item '2' of the petition mentioned property in favour of the minor respondents 5 and 6 by appointing the fourth respondent as their guardian. The petitioner has been appointed as the executrix of the Will. Since P.Guravaiah died, the Will came into force and the executrix had filed this petition for grant of probate.

3. The petitioner examined herself as P.W.1 and Exs.P1 to P6 were marked. One of the attestors of the Will by name J.Chithra examined herself as P.W.2 and Ex.7 was marked. The second respondent examined herself as R.W.1 and Exs.R1 to R4 were marked.



4. The registered Will dated 07.01.2015 is marked as Ex.P1. The death certificate of testator P.Guravaiah is marked as Ex.P4. From the legal heirship certificate of P.Guravaiah which is marked as Ex.P5 it is seen that the respondents 1, 2 and 4 are his legal heirs. The wife of the testator P.Govindamma, predeceased him and she died on 05.11.2016. The death certificate of P.Govindamma is also marked as Ex.P3.

5. One of the attester of the Will by name J.Chithra has been examined as P.W.2 and she had stated in her evidence that she herself and other attester Bala Abelash were present at the time when the Will was executed by the testator. It is further stated that herself and the other witness Bala Abelash have attested the Will and they saw the testator P.Guravaiah signing the Will in their presence. She further stated that at time of execution of Will, the said P.Guravaiah was found to be in sound and disposing state of mind.

6. The second respondent has been examined as R.W.1 and the consent affidavits given by the respondents 1, 2 and 3 & 7 were marked through her as Exs.R1 to R4. Even though the fourth respondent for himself and as guardian of fifth and sixth respondent did not file any consent



O.P.No. 1074 of 2018

affidavit, he did not contest the matter by choosing to cross-examine the witnesses. In fact the children of the fourth respondent who are the respondents 5 and 6 are also the beneficiaries of the Will.

7. The evidences of PW.1 and PW.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 the same has been proved in terms of Section 68 of the Indian Evidence Act. Since the petitioner had proved the genuineness of the Will in which she had been appointed as executrix of the Will, the relief sought shall be granted.

8. In the result, the Original Petition is allowed by granting probate of the last Will and Testament dated 07.01.2015 of late P.Guravaiah, to the petitioner to have effect limited throughout the Union of India.

**28.07.2023**

bkn

Index :Yes/No



O.P.No. 1074 of 2018

## **APPENDIX**

### **Witnessed examined:**

P.W.1 – Hemalatha

P.W.2 – J.Chithra

R.W.1 – P.Revathi

### **Documents marked:**

| <b><i>Exhibits</i></b> | <b><i>Documents</i></b>                                                     |
|------------------------|-----------------------------------------------------------------------------|
| P1                     | Original Will dated 07.01.2015 executed by P.Guravaiah                      |
| P2                     | Photocopy of the sale deed dated 14.08.1978 in favour of P.Guravaiah        |
| P3                     | Computer generated death certificate of Govindamma.P                        |
| P4                     | Computer generated death certificate of P.Guravaiah                         |
| P5                     | Photocopy of the legal heirship certificate of P.Guravaiah                  |
| P6                     | Affidavit of assets showing the net value of the estate as Rs.3,25,00,000/- |
| P7                     | Affidavit of P.W.2                                                          |
| R1                     | Consent affidavit of first respondent                                       |
| R2                     | Consent affidavit of second respondent                                      |
| R3                     | Consent affidavit of third respondent                                       |

**28.07.2023**



WEB COPY



O.P.No. 1074 of 2018

**R.N.MANJULA, J.**

bkn

**O.P.No. 1074 of 2018**

**28.07.2023**