



O.P.No.809 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: **05.04.2023**

CORAM

THE HONOURABLE **MR.JUSTICE K.KUMARESH BABU**
O.P.No.809 of 2021

1.A.Kannan

2.K.Chitra

... Petitioners

Vs

1.K.Saraswathy

2.V.Vasanth

3.R.Jayalakshmi

4.S.Deivanai

... Respondents

PRAYER: Original Petition filed for Testamentary and Intestate under Section 222 and 276 of Indian Succession Act, 1925 under Order XXV Rule 4 of Original Side Rules, prays to prove the Will in common form and that the Probate thereof to have effect throughout the Union of India may be granted to them.

For Petitioner : Mr.Muthu Venkataraman

For Respondent : Mr.Magesh for R4

ORDER

This Original Petition has been filed for issuance of probate for the last Will and testament dated 20.08.1993 executed by Late G.Arumugam,



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who died on 22.01.1994. The 1st petitioner is the son, 2nd petitioner is the daughter in-law and respondents 1 to 4 are the daughters of the Testator.

The petitioners are the joint and several executors appointed under the Will. The respondents 2 to 4 have filed their consent affidavits expressing their consent for grant of probate.

2. The 1st petitioner has been examined as P.W.1. He has produced the death certificates of the testator G.Arumugam and Kannammai (wife of the testator), as Exs.P1 & P4, and the legal heirship certificates of the testator G.Arumugam and Kannammai, as Exs.P5 and P6. A perusal of Exs.P5 and P6 shows that the 1st petitioner and the respondents are the only legal heirs of the testator G.Arumugam. The Original Will and Testament dated 20.08.1993 was lost and not traceable, so the notarized copy of the Will is marked as Ex.P2, the original non-traceable certificate dated 03.06.2019 issued by the Inspector of Police, J8 Neelankarai Police Station, Chennai is marked as Ex.P3. Despite the notice served on the 1st respondent, none have entered appearance. The petitioner has also filed a compliance memo along with the acknowledgment receipt from the 1st respondent as proof of service.



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WEB COPY 3. One R.Ramathan, who is one of the attesting witnesses 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 Mr.S.Kannappan. The consent affidavits of the respondents two to four have been marked as Exs.P8 and P10.

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 20.08.1993.

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Index :Yes/No
Speaking: Yes/ No
Neutral Citation: Yes/No



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Petitioner's witness:

P.W.1 —Mr.A.Kannan

P.W.2 – Mr.R.Ramanathan

Documents exhibited by the petitioners:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Original death certificate of Mr.G.Arumugam
Ex.P2	Notarised copy of Will executed by G.Arumugam on 20.08.1993
Ex.P3	Original non-traceable certificate dated 03.06.2019 issued by the Inspector of Police, J8 Neelankarai Police Station, Chennai – 600115.
Ex.P4	Original death certificate of Mrs.Kannammai
Ex.P5	Original Legal heir certificate of Mr.Arumugam
Ex.P6	Photocopy of the legal heir certificate of Mrs.Kannammai
Ex.P7 (series 15Nos)	Photocopies of the share certificate of Hindustan Lever Limited standing in the name of G.Arumugam
Ex.P8	Consent affidavit of the second respondent
Ex.P9	Consent affidavit of the third respondent
Ex.P10	Consent affidavit of the fourth respondent
Ex.P11	Affidavits of assets stating the net value of the estate 2,13,64,315/-
Ex.P12	Affidavit of PW-2 as attesting witness

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