O.P. No504 of 2023

N.SATHISH KUMAR, J.

This petition has been filed under Sections 222 and 276 of the Indian Succession Act, 1925 read with Order XXV, Rule 4 of O.S. Rules, for the grant of Probate in respect of the last Will and Testament of the deceased Misrimal Jain.

2. This petition has been filed for grant of probate in respect of the Will of one Misrimal Jain executed on 20.04.2020. The petitioner is the executor under the Will. The testator and his wife Vijubai had three sons and four daughters. The respondents, who are the dauther-in-law and grandsons of the testator, are the beneficiaries under the Will. The third son of the testator, viz., the sixth respondent herein had taken Jain Diksha and completely renounced all worldly ties and the general procedure when one takes Diksha in Jainism is that the Jain monk does not have any fixed address and does not sign any document relating to worldly matters. The respondents 1 to 5 and 7 to 9 have given consent affidavits for grant of

probate in favour of the petitioner. The wife of the testator, viz., Vijubai predeceased the testator on 18.09.2014. There is no other kin to be impleaded in this petition. The amount of assets which is likely to come to the hands of the petitioner does not exceed in the aggregate sum of Rs.1,47,21,439/- and the net amount of the said assets after deducting all the items, which the petitioner is by law allowed to deduct is only of the value of Rs.1,47,21,439/-. The petitioner undertake to duly administer the property and credits of the deceased Misrimal Jain and in any way concerning the Will by paying first his debts and then the legacies therein bequeathed so far as the assets will extend and to make a full and true inventory thereof to the Court within six months from the date of grant of Probate to the petitioner and also to render to this Court a true account of the said property and credits within one year from the said date.

3. The petitioner examined himself as P.W.1 and he had narrated the averments made in the petition stating that the petitioner has filed this petition for the grant of probate in his favour in respect of the Last Will and Testament executed by the testator Misrimal Jain on 20.04.2020. Ex.P2 is the original Will executed by the testator. Ex.P.1 is the computer generated death certificate

of the wife testator. Ex.P.1 has been filed to show that the wife of the testator Viju Bail Misrimal died on 18.09.2014. Ex.P.3 is the computer generated death certificate of Mr.Misrimal Jain. Ex.P.3 shows that the testator died on 17.06.2021. Ex.P.4 to Ex.P.8 have been filed to show the assets of the testator Misrimal Jain. Ex.P.9 is the affidavit of assets showing the net value of the estate as Rs.1,47,21,439/-.

4. The attesting witnesses Preetam Jain and Mukesh Jain were examined as P.W.2 and P.W.3. The attesting witnesses in unison voice have stated in their evidence that the signatures found in Ex.P.1 Will are that of the testator. They have further stated that they have signed in the Will as attesting witnesses. They have also stated in their evidence that the testator was in sound state of mind while executing the Will and they has also seen the testator signing the Will. They have also stated that the testator has seen the attesting witnesses subscribing their signature in the Will. The affidavit filed by P.W.2 and P.W.4 has been marked as Ex.P.11 and 12 respectively. The evidence of attesting witnesses not only prove the execution but also attestation of the Will and there is no other materials to suspect the Will.

5. In view of the above facts, I am of the view that the petitioner has proved the execution and attestation of the Will. Hence, the petitioner is entitled for the issuance of probate in his favour.

6.. The Original Petition is ordered. Grant probate of the Will in respect of the petitioner

21.03.2024

vrc

N.SATHISH KUMAR, J.

vrc

O.P. No.504 of 2023

21.03.2024