



O.P.No.797 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on : 10.12.2024

Pronounced on: 16.12.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Original Petition No.797 of 2022

Rema Iyer,
W/o.Arun Visvanath,
D/o.R.Venkateswaran
9825 Fox Meadow Rd,
San Diego California U.S.A 92127

... Petitioner

/versus/

Mr.Raghu Iyer alias Raghunathan,
Son of R.Venkateswaran,
201. Vanderpool Ln.,
Apartment No. 57, Houston,
Texas, U.S.A. 77024
raghuviyer@gmail.com

... Respondent

PRAYER: Original Petition has been filed under Section 222 & 276 of the Indian Succession Act 1925 read with order XXV Rules 4 and 15 of Original Side Rules, prays that the petitioner may be allowed to prove the Will dated 23/8/2007 of Mrs.Mohana Venkateswaran registered as Document No. 194/2007 on the file of the Sub Registrar, Bangalore and that probate thereof to have effect throughout the whole of Union may be granted to her.

For Petitioner : Ms.M.Vidya.

For Respondent : No appearance



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ORDER

This petition has been filed under Section 222 and 276 of Indian Succession Act, 1925 read with Order XXV Rules 4 and 15 of Original Side Rules in the matter of last Will and Testament of Late.Mohana Venkateswaran.

2. The petitioner and the respondent herein are the daughter and son respectively of the testatrix the Late.Mohana Venkateswaran, respectively. During her life time, Mohana Venkateswaran executed a Will on 23/08/2007, which was duly got it registered at SRO, Bangalore. Later, she died at Bangalore on 07/04/2021 leaving behind the petitioner (daughter) and the respondent (son) as her surviving legal heirs. Her husband, Venkateswaran, pre-deceased her on 24th January, 2004.

3. In her Will, the Late Mrs.Mohana Venkateswaran had appointed her daughter, Mrs.Rema V Iyer, as the Executor and also one of the beneficiaries. She had bequeathed the residential unit (Flat) with open car parking at “Anna Regency”, 11th Main Road, Anna Nagar, Chennai absolutely to her daughter, Mrs.Rema V Iyer. The other immovable and movables at Bangalore and elsewhere were considered by her as the residuary of her estate



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and bequeathed it to her daughter (petitioner) and son (respondent) equally.

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4. The Will was duly attested by two witnesses, namely, Caru.D.Souza and Prakash Pinto. Apart from the petitioner, one of the attesting witness to the Will was examined as P.W-2.

5. The petitioner has marked 7 Exhibits. They are as below:-

<i>Exhibits</i>	<i>Documents</i>
Ex.P.1	Computer generated death certificate of Mrs.Mohana Venkateswaran along with the certificate under Section 65B of the Indian Evidence Act, 1872.
Ex.P.2	Original registered Will and Testament dated 23.08.2007 executed by Mrs.Mohana Venkateswaran.
Ex.P.3	Certified copy of the sale deed dated 25.04.2003 executed in favour of Mr.R.Venkateswaran.
Ex.P.4	Certified copy of the sale deed dated 28.11.2003 executed in favour of Mrs.Mohana Venkateswaran
Ex.P.5	Certified copy of the release deed dated 27.02.2012 executed in favour of Mrs.Mohana Venkateswaran
Ex.P.6	Certified copy of the sale deed dated 01.06.2017 executed in favour of Mrs.Mohana Venkateswaran
Ex.P.7	Affidavit of assets showing the net value of the estate as Rs.2,65,00,000/-.
Ex.P.8	Affidavit of attesting witness (Caru D'Souza), marked by P.W.2
Ex.P.9	Photocopy of Aadhar Card (Caru D'Souza), marked by P.W.2



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6. The documents relied by the petitioner disclose that out of five immovable properties, one of the property is within the territorial jurisdiction of this Court. The testatrix had bequeathed that property to her daughter, who is the petitioner herein. The respondent has not entered appearance despite notice served on him. The attesting witness, Mr.Carud.Souza (P.W.2) had deposed that he saw the testatrix signing the Will and that he signed after her. At the time of executing the Will, Mrs. Mohana Venkateswaran was in good state of mind. The evidence of P.W-2, being one of the attesting witness to the Will of Mrs.Mohana Venateswaran, the statutory requirement under Section 67 of the BSA to prove the testament is complied.

7. The ownership of the property is proved through the sale deeds. The death of Mohana Venkateswaran is proved through her death certificate (Ex.P-1). The execution of the Will (Ex.P-2) is spoken by the attesting witness P.W-2. The net value of the estate of Mrs.Mohana Venkateswaran is estimated about Rs.2.45 crores. The petitioner had given an undertaking that she will duly administer the properties and credits of the Late Mrs.Mohana Venkaeswaran, pay first her debts and then the legacies, in so far the assets extend and will make a full and true inventory of the properties and exhibit the same in the Court within 6 months and also render to the Court a true account



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of the property and credits within one year respectively, from the date of grant

of Probate in her favour.

8. The evidence and undertaking given by the petitioner are taken into consideration. The petition for grant of Probate in respect of the last will and testament executed by Late Mrs.Mohana Venkateswaran is allowed as prayed.

9. The petitioner shall exhibit to this Court a full and true inventory of the property covered under the Will, marked as Ex.P-2 within a period of 6 months, from the date of grant of Probate.

10. The petitioner shall render to this Court a true account of the properties and credits within one year from the date of grant of Probate.

11. Accordingly, this Original Petition is allowed as prayed for.

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Index :Yes/No.
Internet :Yes/No.
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Petitioner's witness:

P.W.1 – Mrs.Rema Iyer.

P.W.2 – Caru D'Souza.

Documents marked:

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Dr.G.JAYACHANDRAN,J.

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