



WEB COPY



TOS.No.40 of 2003

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.04.2024

CORAM:

THE HON'BLE MR.JUSTICE P.B.BALAJI

TOS.No.40 of 2003
(O.P.No.471 of 2002)

S.P.Srinivasan

.. Plaintiff

..Vs.

1.Sarojini
2.Sulochana
3.Pushpa
4.Banu
5.Indra
6.Geetha

.. Defendants

[6th defendant impleaded as per order dated 18.11.2004 in A.No.1400 of 2004 the delay in carrying out amendment is condoned by order dated 28.11.2013 in A.No.4511 of 2013]

Prayer: Original Petition has been filed under Sections 222 and 276 of the Indian Succession Act of XXXIX of 1925 for the grant of probate in common from the Will dated 26.07.1994, executed by late, S.Purushothaman Naidu deceased on 27.04.2001 and that probate thereof to have effect throughout the State of Tamil Nadu.



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For Plaintiff :

Mr.P.S.Vasanthakumar

For Defendants : Exparte

J U D G M E N T

The plaintiff, as petitioner in O.P.No.71 of 2002 filed the above suit seeking grant of probate with a Will dated 26.07.1994 of Late, S.Purushothaman Naidu, the deceased, annexed.

2.It is the case of the petitioner that he is the son of the deceased testator, S.Purushothaman Naidu, who died on 27.04.2001, leaving behind a registered Will dated 26.07.1994. The respondents are the wife and other children of the deceased testator, S.Purushothaman.

3.On receipt of notice, the respondents filed Caveat, pursuant to which, the Original Petition was converted into Testamentary Original Suit.

4.Despite conversion of the Original Petition into the Testamentary Original Suit, as the Caveators/defendants have not come forward to file a written statement. Thereafter, this Court has set them exparte and the matter was posted before this Court on 16.11.2023.



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WEB COPY 5.The plaintiff examined himself as P.W.1 before the Additional Master IV and two attesting witnesses to the said Will, namely K.Ramdoss and R.Murugavel have been examined as P.W.2 and P.W.3 and Exs.P1 to Ex.P3 have been marked through P.W.1, the plaintiff.

6.Ex.P1 is the original Will dated 26.07.1994 registered at Sub-Registrar Office at Periamet, Chennai vide Document No.69 of 1994 dated 27.07.1994; Ex.P2 is the Death Certificate of the deceased Late S.Purushothaman Naidu dated 10.06.2002 and Ex.P3 is the Legal Heirship Certificate of Late S.Purushothaman Naidu dated 10.06.2002.

7.P.W.2 and P.W.3 are the two attesting witnesses to the said Will who have spoken about the execution of the Will in their presence and their attestation in the presence of the testator. Through the evidence of P.W.2 and P.W.3, the plaintiff has proved due execution and attestation of the Will, Ex.P1 and has satisfied the mandate of Section 63(c) of the Indian Succession Act r/w Section 68 of the Indian Evidence Act. Therefore, the plaintiff is entitled to grant of probate.



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8.In the result:

(i) The Testamentary Original Suit is decreed as prayed for and the Registry is directed to issue probate with the Will dated 26.07.1994, annexed.

(ii) Considering the nature of relationship between the parties, there shall be no order as to costs.

26.04.2023

Index : Yes/No
Speaking/Non-speaking order
ata

Witnesses examined on the side of the plaintiff:

P.W.1. - S.P.Srinivasan

P.W.2 - K.Ramdoss

P.W.3 - R.Murugavel

Exhibits produced on the side of the plaintiff:

S.No.	Exhibits	Date	Description
1.	P-1	26.07.1994	Original Will registered at Sub Registrar Office at Periamet, Chennai vide Doc.No.69 of 1994 dated 27.07.1994.
2.	P-2	10.06.2002	Death Certificate of deceased Late S.Purushothama Nadu.
3.	P-3	10.06.2002	Legal Heirship Certificate of Late S.Purushothaman Naidu.

Witnesses examined on the side of the defendants:



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Nil.

Documents marked on the side of the defendants:

Nil.

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P.B.BALAJI,J.



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