



O.P.No.600 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :29.11.2024

Pronounced on :04.12.2024

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Original Petition No.600 of 2023

KamalaRamakrishnan

.. Petitioner

/versus/

1.R.Niranjan alias Hari

2.Swetha Ramakrishnan

.. Respondents

Prayer: Original Petition has been filed under Sections 222, 255 & 276 of the Indian Succession Act, 1925 and Order XXV, Rule 4 of the High Court Original Side Rules, prays that the petitioner be allowed to prove the photocopy of the Will in common form, and that thereof, to have effect throughout the whole of Union of India may be granted to the petitioner.

For Petitioner :Mr.R.Parthasarathy

For Respondents :M/s S.Rekha



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ORDER

The petitioner herein is the wife of late Ramakrishnan. This petition is filed seeking Probate in the matter of last Will of R.Ramakrishnan dated 07.10.2018. Ramakrishnan died on 07.07.2019 leaving behind his wife Kamala Ramakrishnan (Petitioner), the son, Niranjana Ramakrishnan (the first respondent) and the daughter, Swetha Ramakrishnan (the second respondent). Under the Will, the testator has mentioned four immovable properties more fully described in the schedule “A to D”. Apart from those schedule mentioned properties, he had referred about bank deposits and other investments in the form of shares and debentures and his investments in the running business. He has bequeathed his movable and immovable properties to his wife KamalaRamakrishnan, the petitioner herein, after distributing cash and some of the properties by way of settlement to his son and daughter. Under the Will, KamalaRamakrishnan been appointed as Executor.



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2. It is an unregistered Will executed in the presence of two witnesses by name Rahul Balaji and V.Krishnan. After the death of Ramakrishnan, the petitioner has moved the High Court for Probate of the original Will of Ramakrishnan in O.P.Sr.No.5600 of 2020. The papers were returned along with the original Will for rectification of the defects and the return papers along with the Original Will were handed to the petitioner by the counsel. The petitioner was in possession and custody of the returned papers including the original Will. During the Flood in the month of November, 2021, the house of the petitioner was inundated water and the documents viz., the petition papers including the original Will washed away by the floods leaving no trace of the papers. At that time, the petitioner was travelling Abroad. Therefore, she could not save the petition papers and the original Will. With this explanation, the petition has been filed with the photocopy of the Will executed by Ramakrishnan.



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3. Apart from the petitioner KamalaRamakrishnan, one of the attesting witness by name V.Krishnan (PW-3), examined to speak about the execution of the Will by Ramakrishnan and his sound disposition of mind. The son and daughter of Ramakrishnan had filed affidavit giving their consent for grant of Probate in favour of KamalaRamakrishnan. KamalaRamakrishnan has also filed an affidavit explaining how she lost the original Will of her husband Ramakrishnan and to accept the photocopy of the Will and grant probate invoking Sections 237 of the Indian Succession Act.

4. To prove the Will, the petitioner was examined as PW-1, the attesting witnesses namely, Mr.Rahul Balaji and V.Krishnan were examined as PW-2 and PW-3 respectively. The petitioner has filed the following documents.

Ex.P1	Photocopy of the unregistered Will and Testament dated 07.10.2018 executed by Mr.R.Ramakrishnan.
Ex.P2	Computer generated death certificate of Mr.R.Ramakrishnan.



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Ex.P3	Computer generated legalheirship certificate of Mr.R.Ramakrishnan.
Ex.P4	Affidavit of assets showing the net value of the estate as Rs.14,23,96,797/-.
Ex.P5	Certificate under Section 63 of BSA.
Ex.P6	PW-2's affidavit as attesting witness.
Ex.P7	Photocopy of PW-2's Aadhaar Card.
Ex.P8	Photocopy of PW-3's Aadhaar Card.

5. The register maintained by the Court was called for in respect of O.P.Sr.No.5600 of 2020 to verify whether any application for Probate filed on behalf of KamalaRamakrishnan by his counsel Mr.R.Parthasarathy and returned for rectification of defects. The entries revealed that after paying the necessary Court fee, petition been filed on behalf of the Mrs.Kamala Ramakrishnan on 10.01.2020. It was returned on 19.07.2021, represented on 18.03.2021 then again returned on 19.07.2021 and received by her counsel on 27.07.2021 but not represented thereafter.

6. The affidavit of assets indicates that the value of the property left under the Will is about Rs.14,23,96,797/-. After the petitioner, the



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respondents are the legal heirs of the deceased Ramakrishnan.

7. In view of the consent given by the other legal heirs of Ramakrishnan and proof of the Will as per Section 67 of the Bharatiya Sakshya Adhiniyam, this Original Petition is allowed.

8. Accordingly, Probate in respect of the last Will of the Testator Tr.R.Ramakrishnan in favour of the petitioner is granted. The petitioner is directed to render inventory of the property within six months and render true and correct accounts within one year from the date of grant of Probate.

04.12.2024

Index:Yes/No

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Petitioner's Witnesses:-

PW-1 :Mrs.KamalaRamakrishnan

PW-2 :Mr.Rahul Balaji

PW-3 :Mr.V.Krishnan

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DR.G.JAYACHANDRAN,J.

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delivery Order made in
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