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TOS. No.12 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 21.06.2024	Pronounced on: 28.06.2024
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CORAM:

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

TOS.No.12 of 2020

M.Ravi Bharathi

.. Petitioner/Plaintiff

..Vs.

Meenambal

.. Caveator/8th Defendant

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 21.11.2008, executed by late, J.Selvam deceased on 24.12.2018 and that probate thereof to have effect throughout the State of Tamil Nadu.

For Plaintiff : Mr.D.Gopinathan

For Defendant : No Appearance



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J U D G M E N T

Originally OP. No.560 of 2019 was filed seeking grant of probate with the Will of late J.Selvam dated 24.12.2018 annexed.

2. The 8th respondent alone filed a Caveat in pursuance of which, the Registry was directed to convert the Original Petition into TOS and accordingly, the above TOS came on file.

3. Though the 8th respondent as defendant had intended to object to the grant of probate in favour of the petitioner, she did not file any written statement and with no other option left, the defendant was set exparte on 22.12.2023 and the plaintiff was directed to lead exparte evidence to prove the Will.

3. Before the learned III Additional Master, the plaintiff examined himself as P.W.1. He has stated that he is the named Executor under the Will executed by late J.Selvam. He has further stated that Will was duly executed in the presence of two witnesses, R.Sivagnanasamy and G.Kamaraj and that as a family friend of the Testator, the plaintiff was appointed as the



Executor of the Will. Ex.P1- Ex.P51 were marked through P.W.1. Ex.P1 is the Original Will executed by the Testator on 24.12.2018. Ex.P5 is the Computer generated Death Certificate of the Testator issued by the Chennai Corporation.

4. One of the attesting witnesses, Mr.R.Sivagnanasamy, was examined as P.W.2. In his chief examination, he has stated that he is the first attesting witness to Ex.P1, Will and his affidavit of attesting witness has been marked as Ex.P.52. He has stated that Ex.P1, Will was executed by the Testator late J.Selvam in his persence and in the presence of the other attesting witness, Mr.G.Kamaraj and that the Testator was in good state of mind. Ex.P52 & Ex.P53 were marked through P.W.2. The second attesting witness Mr.G.Kamaraj, has been examined as P.W.3 and he has also spoken about the execution of the Will and also that of the attestation by himself and the other attesting witness Mr.R.Sivagnanasamy. Ex.P54- Ex.P55 were marked through P.W.3.

5. From the evidences of P.W.1 to P.W.3, due execution and attestation of the Will dated 24.12.2018 executed by late J.Selvam, has been



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proved in accordance with the Section 63(c) of the Indian Succession Act read with Section 68 of the Indian Evidence Act. The plaintiff is therefore entitled to grant of probate as prayed for accordingly. No costs.

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

Witnesses examined on the side of the plaintiff:

- P.W.1. - Mr.M.Ravi Bharathi
P.W.2 - Mr.R.Sivagnanasamy
P.W.3 - Mr.G.Kamaraj

Exhibits produced on the side of the plaintiff:

S.No.	Exhibits	Description
1.	Ex.P1	The original will executed by J. Selvam dated 24.12.2018
2.	Ex.P2	Photos (4 nos) with CD showing the execution of the will.
3.	Ex.P3	The original pendrive
4	Ex.P4	The Original discharge summary of J. Selvam given by LIMA Multi speciality Hospital dated 29.12.2018
5	Ex.P5	Computer generated death certificate of J.Selvam issued by Chennai Corporation dated 18.01.2019
6	Ex. P6	Computer generated legal heir certificate of J.Selvam issued by Tahsildar, Ambattur Taluk dated 14.03.2019



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7	Ex.P7	Certified Copy of the sale deed executed by Tamil Nadu Housing board in favour of J.Selvam vide Doc.No.7788/2006 dated 31.03.2006 in respect of item no.1 property.
8	Ex.P8	Certified copy of the settlement deed executed by Uma in favour of J.Selvam vide Doc.No.11861/2010 dated 30.12.2010
9	Ex.P9	Photocopy of the Joint Venture agreement executed by Krishna Builder with J.Selvam
10	Ex.P10	Certified copy of the sale deed executed by K.Chidambaram and others in favour of J.Selvam vide Doc.No.1847/2003 dated 18.08.2003
11	Ex. P11	Certified copy of the sale deed executed by K.Chidambaram and others in favour of J.Selvam vide Doc.No.1848/2003 dated 18.08.2003
12	Ex. P12	Certified copy of the settlement deed executed by Uma in favour of J.Selvam vide Doc.No.3620/2016 dated 20.06.2016
13	Ex.P13	Certified copy of the settlement deed executed by Hariharan in favour of J.Selvam vide Doc.No.3730/2016 dated 08.07.2016
14	Ex.P14	Certified copy of the sale deed executed by Prabhakar in favour of J.Selvam vide Doc.No.8307/2007 dated 12.07.2007
15	Ex.P15	Certified copy of the settlement deed executed by Uma in favour of J.Selvam vide Doc.No.11862/2010 dated 30.12.2010
16	Ex.P16	Certified copy of the sale deed executed by Elumalai in favour of J.Selvam vide Doc No.1295/2008 dated 21.07.2008
17	Ex.P17	Certified copy of the sale deed executed by S.Thanikasalam in favour of J.Selvam vide Doc No.1296/2008 dated 21.07.2008
18	Ex.P18	Certified copy of the sale deed executed by K.Rajendran in favour of J.Selvam vide Doc.No.466/2009 dated 24.03.2009
19	Ex.P19	Certified copy of the sale deed executed by K.Rajendran in favour of J.Selvam vide Doc.No.467/2009 dated 24.03.2009



20	Ex. P20	Certified copy of the sale deed executed by K.Rajendran in favour of J.Selvam vide Doc.No.480/2009 dated 25.03.2009
21	Ex.P21	Certified copy of the sale deed executed by K.Rajendran in favour of J.Selvam vide Doc.No.481/2009 dated 25.03.2009
22	Ex.P22	Certified copy of the sale deed executed by P.Sarangapani in favour of J.Selvam vide Doc.No.950/2009 dated 02.07.2009
23	Ex.P23	Certified copy of the sale deed executed by P.Sarangapani in favour of J.Selvam vide Doc.No.951/2009 dated 02.07.2009.
24	Ex.P24	Certified copy of the sale deed executed by M.Chakkarapani in favour of J.Selvam vide Doc.No.1375/2010 dated 04.08.2010
25	Ex.P25	Certified copy of the sale deed executed by P.Ramasamy & others in favour of J.Selvam vide Doc.No.1762/2010 dated 06.10.2010
26	Ex.P26	Certified copy of the sale deed executed by T.Raguraman in favour of J.Selvam vide Doc.No.2259/2010 dated 23.12.2010
27	Ex.P27	Certified copy of the sale deed executed by K.Devika in favour of J.Selvam vide Doc.No.1351/2014 dated 15.09.2014
28	Ex.P28	Certified copy of the Encumbrance Certificate issued by SRO Ambattur in respect of Item No.1 properties for the period from 01.01.1998 to 24.11.2022 dated 02.12.2022
29	Ex.P29	Certified copy of the Encumbrance Certificate issued by SRO Ambattur in respect of Item No.2 properties for the period from 09.05.1997 to 30.11.2022 dated 06.12.2022
30	Ex.P30	Certified copy of the Encumbrance Certificate issued by SRO Kilsathanur in respect of Item No.3 properties for the period from 01.01.1998 to 25.11.2022 (in respect of S.No.314/1) dated 28.11.2022
31	Ex.P31	Certified copy of the Encumbrance Certificate issued by SRO Kilsathanur in respect of Item No.3 properties for the period from 01.01.1998 to 25.11.2022 (in respect of S.No.324/1) dated 28.11.2022
32	Ex.P32	Certified copy of the Encumbrance Certificate issued by SRO Kilsathanur in respect of Item No.4 properties for the



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		period from 01.01.1998 to 25.11.2022 dated 29.11.2022
33	Ex.P33	Certified copy of the Encumbrance Certificate issued by SRO Villivakam in respect of Item No.5 properties for the period from 01.01.1998 to 24.11.2022 dated 29.11.2022
34	Ex.P34	Certified copy of the Encumbrance Certificate issued by SRO Ambattur in respect of Item No.6 properties for the period from 01.01.1998 to 24.11.2022 dated 02.12.2022
35	Ex.P35	Certified copy of the Encumbrance Certificate issued by SRO Ambattur in respect of Item No.7 properties for the period from 09.05.1997 to 25.02.2021 dated 01.12.2022
36	Ex.P36	Certified copy of the Encumbrance Certificate issued by SRO Joint 1 Thindivanam in respect of Item No.8 properties for the period from 01.06.2003 to 30.11.2022 (in respect of Doc No.1295 and 1296/2008) dated 05.12.2022
37	Ex.P37	Certified copy of the Encumbrance Certificate issued by SRO Joint 1 Thindivanam in respect of Item No.8 properties for the period from 01.06.2003 to 29.11.2022 (in respect of Doc No.466 of 2009) dated 01.12.2022
38	Ex.P38	Certified copy of the Encumbrance Certificate issued by SRO Joint 1 Thindivanam in respect of Item No.8 properties for the period from 01.06.2003 to 30.11.2022 (in respect of Doc No.467 of 2009) dated 01.12.2022
39	Ex.P39	Certified copy of the Encumbrance Certificate issued by SRO Joint 1 Thindivanam in respect of Item No.8 properties for the period from 01.06.2003 to 30.11.2022 (in respect of Doc No.480 of 2009) dated 01.12.2022
40	Ex.P40	Certified copy of the Encumbrance Certificate issued by SRO Joint 1 Thindivanam in respect of Item No.8 properties for the period from 01.06.2003 to 30.11.2022 (in respect of Doc No.481 of 2009) dated 05.12.2022
41	Ex.P41	Certified copy of the Encumbrance Certificate issued by SRO Joint 1 Thindivanam in respect of Item No.8 properties for the period from 01.06.2003 to 30.11.2022 (in respect of Doc No.950 and 951 of 2009) dated 05.12.2022
42	Ex.P42	Certified copy of the Encumbrance Certificate issued by SRO Joint 1 Thindivanam in respect of Item No.8 properties for the period from 01.06.2003 to 29.11.2022 (in respect of Doc No.1375 and 1762 of 2010) dated 01.12.2022
43	Ex.P43	Certified copy of the Encumbrance Certificate issued by



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		SRO Joint 1 Thindivanam in respect of Item No.8 properties for the period from 01.06.2003 to 30.11.2022 (in respect of Doc No.2259 of 2010) dated 05.12.2022
44	Ex.P44	Certified copy of the Encumbrance Certificate issued by SRO Joint 1 Thindivanam in respect of Item No.8 properties for the period from 01.06.2003 to 30.11.2022 (in respect of Doc No.1351 of 2014) dated 05.12.2022
45	Ex.P45	Consent affidavit of S.Uma
46	Ex.P46	Consent of affidavit of S.Hariharan
47	Ex.P47	Consent affidavit of S.Vignesh
48	Ex.P48	Consent affidavit of S.Uma filed on behalf of her minor son J.S.Keshava
49	Ex.P49	Consent affidavit of S.Srijayavanthi
50	Ex.P50	Consent affidavit of S.Srijayavanthi filed on behalf of her minor daughter J.S.H.Janhaavi
51	Ex.P51	Consent affidavit of S.Srijayavanthi filed on behalf of her minor daughter J.S.Swathi
52	Ex.P52	Affidavit of attesting witness
53	Ex.P53	Photocopy of the Aadhar Card of P.W.2.
54	Ex.P54	Affidavit of attesting witness
55	Ex.P55	Photocopy of the Aadhar Card of P.W.3.

Witnesses examined on the side of the defendants:

Nil.

Documents marked on the side of the defendants:

Nil.

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P.B.BALAJI,J.



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