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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 T.V.Srinivasan.

2. The case of the petitioner is that deceased T.V.Srinivasan executed a will dated 22.08.2020, wherein, the petitioner is appointed as executor and the respondents 1 and 2 are the beneficiaries and the testator died on 25.08.2020. The first respondent is the brother in law, 2nd respondent is the sister in law, respondents 3 and 4 are the sisters, respondents 5 and 6 are Niece and the 7th respondent is the sister in law. It is the further case of the petitioner that the deceased testator was in sound state of mind while executing the will dated 22.08.2020 in the presence of witnesses. However, he died on 25.08.2020 at Guindy Government Corona Hospital, King



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Institute Campus. Hence, the petitioner being the executor of the will has filed this petition.

3. The petitioner examined himself as P.W.1 and marked Exs.P1 to P13. The attesting witnesses P.W.2 and P.W.3 were examined. P.W.4, other witness is also examined to substantiate the will. Ex.P1 is the computer generated death certificate of Srinivasan. Ex.P3 is the original unregistered will dated 22.08.2020 executed by T.V.Srinivasan. Exs.P4 & P5 are the photocopies of the bank passbooks standing jointly in the names of Seetha Srinivasan and T.V.Srinivasan. Ex.P10 is the signature of the P.W.2. Ex.P11 is the signature of P.W.3. Ex.P12 is the downloaded copy of the Covid Test report dated 22.08.2020 of the deceased. Ex.P13 is the original death intimation memorandum of the deceased dated 25.08.2020.

4. The learned counsel for the petitioner would submit that though the attesting witnesses have not supported the execution and attestation of the will, P.W.4 has spoken about the circumstances of the will. The will came to be executed during the Covid pandemic when the testator was infected with



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the Corona. Proof of the will as mandated under law cannot be required in this case. Hence, it is the contention that the evidence of P.W.4 herself clearly shows that the execution of the will was made by the testator while he was in sound state of mind. Hence, submitted that the petitioner is entitled to probate of will.

5. I have perused the entire materials placed on record. Though P.W.1, in his chief examination, except stating that the deceased bequeathed the properties to the beneficiaries and appointed him as the executor he has not stated anything about execution and attestation. The circumstances in which Ex.P3, the unregistered will came into existence has not been explained. The attesting witnesses namely P.W.2 and P.W.3 in their evidences, in one voice, have stated that they have neither seen the execution of the document by the testator nor the other witnesses signing. It is their evidence when the wife of the deceased namely Seetha Srinivasan was died, they were making arrangements for cremation of the body. At that time, they were asked to sign the will. Both of their evidences clearly indicate that they have never seen the testator signing the will at the relevant



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point of time. Therefore, the contention of the petitioner in the affidavit that the will was executed by the testator while he was in sound state of mind in the presence of the witnesses is highly doubtful. The evidence adduced clearly shows that on the date of the will, the wife of the testator also died due to corona and the testator was also admitted in the Hospital due to Corona. Therefore, at this stage, the person infected with corona preparing the will in the presence of the witnesses is highly improbable.

6. Though the P.W.4 was examined to explain the circumstances under which the will came into existence, on entire analysis of the evidence of P.W.4, the same will also not satisfy the proof of the will as required under law. Such being the position, merely, because P.W.4 has given a different explanation, the proof of will which is a mandatory cannot be dispensed with. Further, the very evidence adduced on the side of the petitioner indicate that at the time of the death of the wife of the testator, the will came to be executed that is also highly improbable. When the person is already suffering from Corona and also lost his wife's life, in that situation executing the will in sound state of mind is also highly improbable.



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7. Considering these aspects, this Court is of the definite view that the will has not been established under law and shrouded by suspicious circumstances. Accordingly, this petition is dismissed. The petitioner remedy lies elsewhere to establish their right by approaching the Court for Letters of Administration as per law.

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