



O.P.No.297 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :12.11.2024

Pronounced on :14.11.2024

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

ORIGINAL PETITION NO.297 OF 2024

S.Nagarajan

.. Petitioner

/versus/

1.R.Kalyani

2.Sathyanarayana Tawker

3.S.Ramachandra Mehta

4.U.Rekha

5.Shree Leela

6.S.Chandrasekar

.. Respondents

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



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For Petitioner :Mr.N.Jayakumar

For Respondents :M/s S.Sudha Selvakumar

ORDER

This Original Petition for grant of Probate is filed under Sections 222 and 276 of the Indian Succession Act, 1925 read with Order XXV, Rule 4 of the O.S.Rules, in respect of the registered Will of Late Tmt.Ganga Bai, W/o Late A.Subbaraya Tawker.

2. The case of the petitioner herein is that, the Testatrix Tmt.GangaBai died on 17/09/2005, leaving behind her husband Mr.A.Subbaraya Tawker, two sons by name, Nagarajan and Chandrasekar, the legal heirs of her pre- deceased son Ramakrishnan and a daughter by name Anuradha. Later, her husband Mr.A.Subbaraya Tawker died on 27.03.2016 and her daughter Anuradha died on 13.06.2022 leaving behind her husband and two daughters. After the demise of his father, the last Will of his mother Ganga Bai was located and found that she had executed a Will dated 05/12/1991 appointing the petitioner as Executor and got it registered at

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SRO, Mylapore as Document No: 153 of 1991 in Book III, dated 06/12/1991.

3. As per the wish of the testatrix, the petitioner and his brother are the joint beneficiary of the Will. They both had jointly paid Rs.2,00,000/- to the legal heirs of Anuradha as mandated in the Will and had discharged the charge created under the Will. The execution of the Will been witnessed by two persons one by name M.Lakshmanan and another by name T.K.Balachandran. They both are no more. With an undertaking that he will duly administer the property and credits of the deceased Ganga Bai and make a full and true inventory thereof and exhibit the same in this Court within 6 months from the date of grant of Probate, the present petition is filed.

4. On receipt of the summons, the respondents 1 to 4 had entered appearance and had filed affidavit consenting for grant of Probate in favour of the petitioner.

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5. To prove the Will, the petitioner has examined himself as PW-1 and marked the documents as Ex.P-1 to Ex P-22. Since the attesting witnesses are dead, Meera, W/o Chandrasekar, who is the daughter-in-law of Gangabai being conversant with the signature of the testatrix been examined as PW-2 and marked Ex.P-23 and Ex.P-24. The documents relied by the petitioner are: -

Ex.P1	Original Will dated 05.12.1991 executed by Mrs.Ganga bai.
Ex.P2	Photocopy of the sale deed dated 10.07.1961 executed in favour of Mrs.Ganga Bai.
Ex.P3	Photocopy of the extract from permanent land registrar (patta) in respect of the property standing in the name of Mrs.Ganga Bai.
Ex.P4	Photocopy of the letter dated 24.11.1966 from Madras State Electricity Board addressed to Mrs.Ganga Bai.
Ex.P5	Photocopy of his Aadhar Card.
Ex.P6	Photocopy of the property tax in respect of the property standing in the name of Mrs.Ganga Bai.
Ex.P7	Photocopy of the water and sewerage tax card in respect of the property standing in the name of Mrs.Ganga Bai.
Ex.P8	Photocopy of the electricity consumption card in respect of the property standing in the name of Mrs.Ganga bai.
Ex.P9	Affidavit of assets showing the net value of the estate as Rs.49,50,000/-.
Ex.P10	Computer generated legal heir certificate of Mrs.S.Ganga Bai along with the certificate under Section 65B of the Indian Evidence Act, 1872.



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Ex.P11	Computer generated death certificate of Mrs.S.Ganga Bai along with the certificate under Section 65B of the Indian Evidence Act, 1872.
Ex.P12	Photocopy of the encumbrance certificate for the period from 01.01.1911 to 31.12.1974.
Ex.P13	Computer generated death certificate of Mrs.Anuradha along with the certificate under Section 65B of the Indian Evidence Act, 1872.
Ex.P14	Computer generated legal heir certificate of Mrs.Anuradha along with the certificate under Section 65B of the Indian Evidence Act, 1872.
Ex.P15	Computer generated fund transfer NEFT e-receipt dated 02.12.2022 to Mr.Ramachandra Mehta, the third respondent herein along with the certificate under Section 65B of the Indian Evidence Act, 1872.
Ex.P16	Computer generated fund transfer NEFT e-receipt dated 02.12.2022 to Mrs.U.Rekha, the fourth respondent herein along with the certificate under Section 65B of the Indian Evidence Act, 1872.
Ex.P17	Computer generated fund transfer NEFT e-receipt dated 02.12.2022 to Mrs.B.Shree Leela, the fifth respondent herein along with the certificate under Section 65B of the Indian Evidence Act, 1872.
Ex.P18	(Series 2 Nos.) are the computer generated property tax general revision dated 15.06.2023 and property tax receipt dated 24.07.2024 in the name of Mrs. S.Ganga Bai along with the certificate under Section 65B of the Indian Evidence Act, 1872.
Ex.P19	Computer generated water tax and charges receipt dated 24.07.2024 in the name of Mrs.S.Ganga Bai along with the certificate under Section 65B of the Indian Evidence Act, 1872.
Ex.P20	(Series 2 Nos) are the computer generated tax invoice for LT current consumption charges for the month of July 2024 and EB receipt dated 22.07.2024 stand in the name of Mrs.S.Ganga Bai.
Ex.P21	Computer generated death certificate of Mr.T.K.Balachandran along with the certificate under Section 65B of the Indian Evidence Act, 1872.
Ex.P22	Computer generated death certificate of Mr.Lakshmana Chettiar along with the certificate under Section 65B of the Indian Evidence Act,



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	1872.
Ex.P23	Photocopy of PW-2's Aadhaar Card
Ex.P24	Third Party Affidavit filed by PW-2.

6. From the above documents, the facts which are *prima facie* proved are:-

The petitioner herein is the eldest son of Late Ganga Bai. The respondents 1 and 2 are the wife and son of her pre-deceased son Ramakrishnan. Respondent 3 and 4 are the husband and daughter of Anuradha, D/o Late Ganga Bai, since the said Anuradha, who died subsequent to the death of Ganga Bai is one of the beneficiary named in the Will. The 6th Respondent is the younger son of Late Ganga Bai.

7. The deceased Ganga Bai had purchased the petition schedule mentioned immovable property under a registered sale deed dated 10.07.1961 and been in possession and enjoyment of the property till her death on 17/09/2005 at M.R.Hospital, 12, Govindan Street, Ayyavoo Colony,



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Aminjikarai, Chennai. Her last place of residence was at No: 9/336, B Type, 49th Street, SIDCO Nagar, Chennai. The encumbrance certificate reveals, the property stands in the name of Ganga Bai and it is free from encumbrance.

8. She had executed a Will in respect of the property in which the petitioner is named as the Executor. The other legal heirs of Ganga Bai have no objection in appointing the petitioner as the Executor of the Will and to grant Probate in his favour to administer the property as per the Will and for him to render true and proper inventory of the property. The Will being a registered Will and none of the two attesting witnesses are alive, PW-2 been examined to identify the signature of the testatrix. The Will is dated 05.12.1991 and got registered on the next day. Due to efflux of time, the petitioner is not in a position to bring witness to identify the signature of the attesting witnesses, however, the signature of the testatrix has been identified by her daughter-in-law PW-2 who had been living with her under the same roof.



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9. The property falls within the territorial jurisdiction of this Court and the petitioner being named as the Executor in the Will and he is willing to act as Executor which is consented by the other beneficiaries and legal heirs of late Ganga Bai, there is no legal impediment to grant Probate to the petitioner Nagarajan to be the Executor of the last Will of Ganga Bai dated 05/12/1991 annexed to the petition and administer the property as per the terms of the Will and render inventory.

10. Accordingly, this Original Petition is allowed as prayed for. Grant of Probate in respect of the last Will of the Testatrix Tmt. Ganga Bai in favour of the petitioner. The petitioner is directed to render true and correct accounts once in six months and one year.

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Index:yes/no
Speaking order/non speaking order
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Petitioner's witness:-

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PW-1 :Mr.S.Nagarajan

PW-2 :Mrs.S.Meera

Documents marked:-

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DR.G.JAYACHANDRAN,J.

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delivery Order made in
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