



O.P.No.208 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Reserved on : 06.11.2024

Pronounced on: 11.11.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Original Petition No.208 of 2022

Mrs.S.Seethalakshmy

... Petitioner

/versus/

1. Mr.O.S.Swaminathan,
2. Mr.O.S.Sivakumar,
3. Pushpa Latha Chandramouly,
4. Santhoshi Matha Chandramouly,

... Respondents

PRAYER: Original Petition has been filed under Section 222 & 276 of the Indian Succession Act, 1925 r/w Order XXV Rule 5 of Original Side Rules, 1956 for grant of probate to prove the Will and having effect throughout the State of Tamil Nadu.

For Petitioner : Mr.T.Easwaradhas

For R3 & R4 : Mr.M.Manoj Kumar.

For R1 & R2 : No appearance



O.P.No.208 of 2022

ORDER

WEB COPY

The Original Petition has been filed under Section 222 & 276 of Indian Succession Act r/w XXV Rule 5 of Original Side Rules, 1956 for grant of probate of the *Will* dated 26.07.2005 executed by late Sivakami who died on 30.12.2013 at Neyveli.

2. The petitioner herein is the daughter of said Sivakami. She is the legatee as well as executor named in the *Will* of Sivakami. The respondents 1 & 2 are sons of Sivakami. The respondents 3 & 4 are children of one Chandramouly, who is the predeceased son of the testatrix Sivakami. The scheduled-mentioned property was acquired by Sivakami during her lifetime *vide* sale deed dated 10.09.2004. On 26.07.2005, Sivakami executed a *Will* in favour of petitioner/Mrs.S.Seethalakshmy and got the deed registered at the Sub Registrar Office, Adyar, in Document No.57/2005. The *Will* was attested by two persons, namely, Mr.K.Srinivasan and K.Sampoornam.

3. The Original Petition is filed seeking to grant probate in favour of the petitioner/S.Seethalakshmy, who is named as executor as well as the beneficiary under the *Will*. To prove the due execution of the *Will*, the petitioner



O.P.No.208 of 2022

has examined herself as P.W.1 marked the following five documents:

WEB COPY

<i>Exhibits</i>	<i>Documents</i>
Ex.P.1	Original registered Will and Testament dated 26.07.2005 executed by Mrs.Sivakami
Ex.P.2	Original Death certificate of Mrs.S.Sivakami
Ex.P.3	Original Sale deed dated 10.09.2004 executed in favour of Mrs.S.Sivakami
Ex.P.4	Affidavit of Assets showing the net value of the Estate as Rs.51,35,236/-
Ex.P.5	Photocopy of my Aadhar Card (compared with the original)

4. One of the attessor to the *Will* by the name of K. Srinivasan was examined as P.W.2. He has identified the signature of Sivakami as well as his signature and the other attesting witness, K.Sampoornam. His affidavit is marked as Ex.P.6 and the photocopy of his Aadhaar card marked as Ex.P.7. Ex.P.3 is the original sale deed for the property, which reveals that Sivakami had purchased the scheduled mentioned property from one Mrs.Anandavalli Subramanian for due consideration and had been in possession of the property. In the *Will* (Ex.P.1), dated 26.07.2005, Mrs.Sivakami has stated that she is bequeathing the property in favour of her daughter S.Seethalakshmy (the petitioner herein) and appoint her as the executor of the *Will*. The due execution of the *Will* been spoken by one of the attesting witness by Srinivasan (P.W.2),



O.P.No.208 of 2022

which satisfies the statutory requirement under Section 67 of Bharatiya Sakshya Adhiniyam. Ex.P.2 is the death certificate of Sivakami, which discloses that she died on 30.12.2013 at Neyveli and at that point of time, her permanent address was at Tuticorin. On the death of Sivakami, the *Will* has come into effect.

5. Since the property is situated within the territorial jurisdiction of the High Court, probate of the *Will* is required and hence, the petitioner is before this Court identifying the *Will* (Ex.P.1) as the last *Will* of the testatrix. The petitioner, being the beneficiary, entitled to succeed the property under the *Will*. She along with the petition, had filed the consent affidavit of respondents 1 to 4, namely, Mr.O.S.Swaminathan, Mr.O.S.Sivakumar, (Sons of Sivagami), Pushpa Latha Chandramouly and Santhoshi Matha Chandramouly (grand daughters of Sivakami born to her, pre-deceased son Chandramouly). Therefore, there is no objection for them to grant of probate in favour of the petitioner.

6. Being satisfied with the documents produced by the petitioner, this Court grants probate in favour of the petitioner in respect of the last *Will* (26.07.2005) of Sivakami, who died on 30.12.2013.



WEB COPY



O.P.No.208 of 2022

7. In fine, *this Original Petition stands allowed* as prayed for.

11.11.2024

Index : Yes/No.
Internet : Yes/No.
Speaking Order/Non-Speaking Order
bsm

APPENDIX

Petitioner's witness:

P.W.1 – Mrs.S.Seethalakshmy.
P.W.2 – Mr.K.Srinivasan

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
Ex.P.1	Original registered Will and Testament dated 26.07.2005 executed by Mrs.Sivakami
Ex.P.2	Original Death certificate of Mrs.S.Sivakami
Ex.P.3	Original Sale deed dated 10.09.2004 executed in favour of Mrs.S.Sivakami
Ex.P.4	Affidavit of Assets showing the net value of the Estate as Rs.51,35,236/-
Ex.P.5	Photocopy of my Aadhar Card (compared with the original)

11.11.2024



WEB COPY



O.P.No.208 of 2022

Dr.G.JAYACHANDRAN,J.

bsm

Pre-delivery order made in
Original Petition No.208 of 2022

11.11.2024