



O.P. No.432 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2024

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

O.P. No.432 of 2023

B.E.Gunasekaran

... Petitioner

Vs.

1.M.A.Kamalakannan
2.Mrs.K.Padmavathi
3.K.Hariprasad
4.K.Udayakumar

... Respondents

PRAYER: Original Petition filed under Sections 222 and 276 of the Indian Succession Act, 1925, read with Order XXV Rule 4 of O.S. Rules, to allow the petitioner to prove the Will dated 10.12.2020 and registered as Doc.No.32/2020 in the office of Thiyagaraya Nagar Sub-Registrar office, in common form and that probate thereof, to have effect throughout the whole State of Tamil Nadu, may be granted to him.

For Petitioner : Mr.V.Manisekaran

For Respondents : Mr.Sankar Ramasamy for R2



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ORDER

The petition has been filed seeking probate of the Will dated 10.12.2020, registered as Doc.No.32/2020 in the office of Thiagaraya Nagar Sub-Registrar office, Chennai, executed by one R.Yasotha who died on 21.08.2021 and her husband Raghavalu Maistry had predeceased her and died on 18.11.1985.

2. The petitioner is the named executor under the Will and also one of the beneficiaries. The first respondent is the brother-in-law of the testatrices. The respondents 2 to 4 are the children of the first respondent.

3. Notice had been served on the respondents and only the second respondent has appeared before this Court. The respondents 1, 3 and 4 have not appeared before this Court. But however, the learned Master had recorded completion of service.

4. After following due procedure, the petitioner was directed to tender evidence. Accordingly, the petitioner examined himself as P.W.1 and the original Will was marked as Ex.P1 and the Death Certificate of



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M.V.Raghavalu was marked as Ex.P2. The Death Certificate of R.Yasotha was marked as Ex.P5. The documents relating to the properties were marked as Exs.P3 and P4. The petitioner also examined R.Deivasigamani as P.W.2. who is the one of the witnesses to the attestors of the Will. He affirmed Ex.P1/Will and stated that he and the other attesor were present when the Will was executed and that the testatrix was in a sound state of mind. They also signed in her presence. The second respondent was examined as R.W.1. She marked a consent affidavit as Ex.R1.

4. Taking into consideration the nature of the evidence recorded and the documents produced, this Original Petition stands allowed by granting probate of the last Will and Testament dated 10.12.2020 of late R.Yasotha, the testatrix, to the petitioner to have effect throughout the whole State of Tamil Nadu. The respondents 1, 3 and 4 are set ex-parte.

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Index :Yes/No
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APPENDIX

Petitioner's witness:

P.W.1 – Mr.B.E.Gunasekaran

P.W.2 - Mr.R.Deivasigamani

Respondents' witness:

R.W.1 - Mrs.K.Padmavathi

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
P1	the original Will dated 10.12.2020 executed by Mrs.Yasotha.
P2	the computer generated death certificate of Mr.M.V.Raghavalu.
P3	the online printout of certificate of extract from the permanent land register in respect of the mentioned in the petition.
P4	the online printout of encumbrance certificate dated 25.09.2020 for the period from 01.01.1998 to 22.09.2020 in respect of the property mentioned in the petition.
P5	the computer generated death certificate of Mrs.R.Yasotha.
P6	the photocopy of the family card of Mrs.R.Yasotha for the period from 2005-2009.
P7	the photocopy of the Aadhaar Card of Mrs.Yasotha.
P8	the photocopy of the petitioner's Aadhaar Card.
P9	the affidavit of assets showing the net value of the estate as Rs.35,00,000/-
P10	the affidavit of P.W.2 Mr.R.Deivasigamani.

<i>Exhibits</i>	<i>Documents</i>
R1	the consent affidavit of the second respondent Mrs.K.Padmavathi.

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C.V.KARTHIKEYAN, J.

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