



O.P.No.65 of 2023

O.P. No.65 of 2023

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 Usha V.Iyer.

2. This petition has been filed for grant of probate in respect of the Will of one Usha V.Iyer executed on 07.12.2019. The second and third petitioners are appointed as executors under the Will. The first petitioner is the son of Lalitha Rajagopalan. The testator Usha V.Iyer is the niece of the aunt of the second petitioner. The testatrix died as a spinster. Mr.L.K.Vishwanath married Sharadha and they had two daughters, viz., Nirmala and Usha Iyer. The said Nirmala married Ashok Kambuli. The said Nirmala died on 12.08.2008 leaving behind her husband, the first respondent herein and her son and daughter, the second and third respondents. The parents of the testator predeceased her. The testatrix and her father have jointly purchased the schedule property and thereafter the



O.P.No.65 of 2023

father of the testatrix also executed a released deed releasing his share in the property to the testatrix. There is no other kin to be impleaded in this petition. The respondents have filed consent affidavits for grant of probate in favour of the petitioners. The amount of assets which is likely to come to the hands of the petitioner does not exceed in the aggregate sum of Rs.3,63,80,810/- and the net amount of the said assets after deducting all the items, which the petitioner is by law allowed to deduct is only of the value of Rs.3,63,80,810/-. The petitioner undertake to duly administer the property and credits of the deceased Usha V.Iyer and in any way concerning the Will by paying first her debts and then the legacies therein bequeathed so far as the assets will extend and to make a full and true inventory thereof to the Court within six months from the date of grant of Probate to the petitioners and also to render to this Court a true account of the said property and credits within one year from the said date.

3. The second petitioner examined himself as P.W.1 and he had narrated the averments made in the petition stating that the petitioners have filed this petition for the grant of probate in their favour in respect of the



O.P.No.65 of 2023

Last Will and Testament executed by the testatrix Usha V.Iyer on

07.12.2019. Ex.P5 is the original Will executed by the testatrix. Ex.P.1 is the copy of death certificate of the sister of the testatrix. Ex.P.1 has been filed to show that the sister Nirmala of the testatrix died on 12.09.2008.

Ex.P.2 is the computer generated death certificate of Mrs.Saradha Viswanath. Ex.P.2 shows that the mother of the testatrix died on 21.12.2011. Ex.P.3 is the copy of the release deed dated 10.04.2013 executed by the father of the testatrix in favour of the testatrix. Ex.P.4 is the computer generated death certificate of the father of the testatrix. Ex.P.4 has been filed to show that the L.K.Viswanath died on 04.11.2013. Ex.P.6 is the computer generated death certificate of the testatrix. Ex.P.6 shows that the testatrix Usha V Iyer died on 09.11.2020. Ex.P.11 to Ex.P.23 have been filed to show the assets of the testatrix Usha V.Iyer. Ex.P.4 is the affidavit of assets showing the net value of the estate as Rs.3,63,80,810/-. Ex.P.9 and Ex.P.10 are paper publications and none objected for the same.

4. The attesting witnesses V.Raman and S.Sudhakar were examined



O.P.No.65 of 2023

as P.W.2 and P.W.3. The attesting witnesses in unison voice have stated in their evidence that the signatures found in Ex.P.5 Will are that of the testatrix. They have further stated that they have signed in the Will as attesting witnesses. They have also stated in their evidence that the testatrix was in sound state of mind while executing the Will and they has also seen the testatrix signing the Will. They have also stated that the testatrix has seen the attesting witnesses subscribing their signature in the Will. The affidavit filed by P.W.2 and P.W.3 have been marked as Ex.P.25 and 26 respectively. The evidence of attesting witnesses not only prove the execution but also attestation of the Will and there is no other materials to suspect the Will.

5. In view of the above facts, I am of the view that the petitioners have proved the execution and attestation of the Will. Hence, the petitioners are entitled for the issuance of probate in their favour.

6. The Original Petition is ordered. Grant probate of the Will in



respect of the petitioners.

WEB COPY

vrc



O.P.No.65 of 2023

22.03.2024



WEB COPY



O.P.No.65 of 2023

N.SATHISH KUMAR, J.

VTC

O.P. No.65 of 2023

22.03.2024