



WEB COPY



TOS.No.36 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.04.2024

CORAM:

THE HON'BLE MR.JUSTICE P.B.BALAJI

TOS.No.36 of 2023
(O.P.No.9 of 2022)

O.PR.Ramiah

.. Plaintiff

..Vs.

1.P.Malarvizhi

2.S.Uma

3.K.Kanimozhi

.. Defendants

Prayer: Original Petition has been filed under Sections 222 and 276 of the Indian Succession Act of XXXIX of 1925 for the grant of probate in respect of the Will dated 25.03.1994, in common form and that the probate thereof having effect throughout the State of Tamil Nadu.

For Plaintiff : Mrs.V.S.Manimekalai

For Defendants : No appearance

J U D G M E N T

The Original Petition No.9 of 2022 filed for grant of probate of the Will of the M.S.M.Mangudi, who died on 07.05.1997 leaving behind a Will dated 25.03.1994.



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2.The petitioner is the sole executor appointed under the Will dated 25.03.1994 and the respondents are the legal heirs of the deceased, M.S.M.Mangudi. The 1st respondent, the daughter of the testator is the sole beneficiary under the Will and her husband was appointed as sole executor. Out of the respondents 2 to 11 in the Original Petition, the respondents 5, 7 and 10 filed Caveat, intending to oppose the grant of probate. However, the respondents 7 and 10 were set exparte.

3.On conversion of Original Petition into Testamentary Original Suit, P.Malarvizhi, S.Uma and K.Kanimozhi were arrayed as defendants and none of the defendants have come forward to file a written statement and thereafter, this Court pleased to direct evidence to be recorded in the Testamentary Original Suit.

4.The plaintiff examined himself as P.W.1 and through him Exs.P1 to Ex.P4 were marked. The attesting witnesses, Manoharan and Venkatesan have been examined as P.W.2 and P.W.3. Ex.P1 is the original Will executed by M.S.M.Mangudi; Ex.P2 is the Death Certificate of Mangudi; Ex.P3 is the Legal Heirship Certificate of Mangudi and Ex.P4 is the valuation report.



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5.On going through the evidence, I find that from the Death Certificate, Ex.P2 of M.S.M.Mangudi/testator, the death of the testator is established and thus, his Will dated 25.03.1994 takes effect.

6.From the evidence of PW.2, Manoharan and P.W.3, Venkatesan, I am able to see that due execution and attestation have been proved and the mandate under Section 63(c) of the Indian Succession Act r/w Section 68 of the Indian Evidence Act stands satisfied. Therefore, the plaintiff is entitled to grant of probate as prayed for.

7.In the result:

(i) The Testamentary Original Suit is decreed as prayed for and the Registry is directed to issue probate with the Will dated 25.03.1994, annexed.

(ii) Consideration the nature of relationship between the parties, there shall be no order as to costs.

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Index : Yes/No
Speaking/Non-speaking order
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Witnesses examined on the side of the plaintiff:

P.W.1. - Ramiah

P.W.2 - Manoharan

P.W.3 - Venkatesan

Exhibits produced on the side of the plaintiff:

S.No.	Exhibits	Date	Description
1.	P-1	25.03.1994	Original Will executed by M.S.M.Mangudi.
2.	P-2		Death Certificate of Mangudi.
3.	P-3		Legal Heirship of Mangudi.
4.	P-4		Valuation report.

Witnesses examined on the side of the defendants:

Nil.

Documents marked on the side of the defendants:

Nil.

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P.B.BALAJI,J.
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