



O.P.No.50 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Reserved on : 19.12.2024

Pronounced on: 21.12.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Original Petition No.50 of 2024

N.Suresh

S/o.Late T.N.Narayanaswamy Iyer,

New No.67, Old No.35 A,

Alagarperumal Koil Street,

Vadapalani,

Chennai - 600 026.

... Petitioner

/versus/

1. N.Vanaja,

W/o.Balan,

No.1D, 1st Floor,

Ramaniyam Kamadhenu,

Ponnambalam Salai, KK Nagar,

Chennai - 600 078.

2. N.Devaki,

W/o.Late Margabandhu,

No.12/56, Just Born Building,

Thillayadi Valliyammi Cooptex,

Pantheon Salai, 1st Lane,

Egmore, Chennai - 600 008.

3. N.Radha,

W/o.Vaidyanathan,

No.17, Swaminathan Nagar,

1st Street, Pammal,

Chennai - 600 075.



O.P.No.50 of 2024

4. N.Ramesh,
S/o.Late T.N.Narayanaswamy Iyer,
No.1E, Ramaniyam Kamadhenu,
Ponnambalam Salai, KK Nagar,
Chennai - 600 078.

5. S.Nagarajan,
S/o.Sridharan,
13 Hallows Street,
Glen Waverley VIC 3150,
Australia.

6. S.Ayshwarya,
W/o.Srinivas Nagarajan,
D/o.Sridharan,
3341, Keenland Rd,
Marietta GA 30062, USA.

7. K.Ashwath Narayan
S/o.Kannan,
Plot No.142, 101th Street,
15th Sector, K.K.Nagar,
Chennai - 600 078.

8. N.Yassasswini Kannan
W/o.Narendra Sudhakar,
D/o.Kannan,
No.2, Carmichael Drive,
Whitby, Ontario,
Canada, LIN9A4.

... Respondents

PRAYER: Original Petition has been filed under Section 222 & 276 of the Indian Succession Act 39 of 1925 read with order XXV Rules 4 of Original Side Rules, prays to permit the petitioner to prove the Will in common form and that probate thereof to have effect limited to the State of Tamil Nadu may be granted to him.



WEB COPY



O.P.No.50 of 2024

For Petitioner : Mr.B.Govinda Prabu.

For Respondents : No appearance
consent affidavit filed

ORDER

This petition has been filed under Section 222 and 276 of Indian Succession Act 39 of 1925 and Order XXV Rules 4 of Original Side Rules in the matter of last Will and Testament of Late N.Saraswathy W/o.T.N.Narayanaswamy.

2. The petitioner is one of the son of late N.Saraswathy. He was appointed as an Executor in the Will and also one of the beneficiaries. The said Testatrix, N.Saraswathy, died on 01/05/2001, leaving behind four sons. Her husband, Narayanaswamy, pre-deceased N.Saraswathy. In the Will, N.Saraswathy has bequeathed her property to the son, N.Suresh. Her other three sons were witnesses to the Will. After the death of Saraswathy, two of her sons, Kannan and Sridharan, died on 08/01/2020 and 07/01/2020, respectively. Their legal heirs are the respondents 5 to 8. Respondents 1 to 4 have given their consent affidavit for the grant of probate to the petitioner.



O.P.No.50 of 2024

WEB COPY

3. To prove his claim, the petitioner has examined himself as P.W.1 and marked 10 documents and Mr.N.Ramesh was examined as P.W.2 and marked 2 documents.

<i>Exhibits</i>	<i>Documents</i>
Ex.P.1	Original sale deed dated 19.02.1992 executed in favour of Mr.N.Suresh.
Ex.P.2	Original settlement deed dated 27.03.2001 executed by Mr.N.Suresh in favour of Mrs.N.Saraswathy.
Ex.P.3	Original unregistered Will dated 14.04.2005 executed by Mrs.N.Saraswathy.
Ex.P.4	Notarised copy of the legal heir ship certificate of Mrs.N.Saraswathi.
Ex.P.5	Computer generated death certificate of Mr.N.Kannan.
Ex.P.6	Computer generated death certificate of Mr.N.Sridharan.
Ex.P.7	Computer generated death certificate of Mr.N.Saraswathy.
Ex.P.8	Photocopy of the Aadhaar Card of Mr.Narayanaswamy Suresh.
Ex.P.9	Certificate under Section 65B of the Indian Evidence Act, 1872.
Ex.P.10	Affidavit of assets showing the net value of the estate as Rs.50,00,000/-.
Ex.P.11	Aadhaar Card (N.Ramesh)
Ex.P.12	Affidavit (N.Ramesh)

4. To prove the due execution of the Will (Ex.P-3), one of the attesting witness Mr.N.Ramesh is examined as P.W-2. The Will (Ex.P-3) is proved through this witness, who had deposed that, in his presence and in the presence of other witnesses, the testatrix affixed her signature and at the time of execution, the testatrix was in good state of mind and health.



WEB COPY



O.P.No.50 of 2024

5. On perusal of the petition, the consent affidavit by the defendants and the evidence of the attesting witnesses, this Court holds that N.Saraswathy had executed a Will marked as Ex.P-3, appointing her son N.Suresh as the executor. Her other son, N.Ramesh who is the attesting witness of the Will, identified the signature of his mother and had spoken about the state of mind while executing the Will Ex.P-3.

6. The petitioner had given an undertaking that he will duly administer the properties and credits of the Late N.Saraswathy, pay first her debts and then the legacies, in so far the assets extend and will make a full and true inventory of the properties and exhibit the same in the Court within six months and also render to the Court a true account of the property and credits within one year respectively, from the date of grant of Probate in her favour.

7. The evidence and undertaking given by the petitioner are taken into consideration. The petition for grant of Probate in respect of the last will and testament executed by Late N.Saraswathy is allowed as prayed.



O.P.No.50 of 2024

8. The petitioner shall exhibit to this Court a full and true inventory of the property covered under the Will within a period of 6 months, from the date of grant of Probate.

9. The petitioner shall render to this Court a true account of the properties and credits within one year from the date of grant of Probate.

10. Accordingly, the petition for grant of probate to the petitioner/N.Suresh, the named executor under the will of N.Saraswathy is allowed.

21.12.2024

Index :Yes/No.
Internet :Yes/No.
bsm

Petitioner's witness:

P.W.1 – Mr.N.Suresh.

P.W.2 – Mr.N.Ramesh.

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
Ex.P.1	Original sale deed dated 19.02.1992 executed in favour of Mr.N.Suresh.
Ex.P.2	Original settlement deed dated 27.03.2001 executed by Mr.N.Suresh in favour of Mrs.N.Saraswathy.
Ex.P.3	Original unregistered Will dated 14.04.2005 executed by



O.P.No.50 of 2024

<i>Exhibits</i>	<i>Documents</i>
	Mrs.N.Saraswathy.
Ex.P.4	Notarised copy of the legal heir ship certificate of Mrs.N.Saraswathi.
Ex.P.5	Computer generated death certificate of Mr.N.Kannan.
Ex.P.6	Computer generated death certificate of Mr.N.Sridharan.
Ex.P.7	Computer generated death certificate of Mr.N.Saraswathy.
Ex.P.8	Photocopy of the Aadhaar Card of Mr.Narayanaswamy Suresh.
Ex.P.9	Certificate under Section 65B of the Indian Evidence Act, 1872.
Ex.P.10	Affidavit of assets showing the net value of the estate as Rs.50,00,000/-.
Ex.P.11	Aadhaar Card (N.Ramesh)
Ex.P.12	Affidavit (N.Ramesh)

21.12.2024



WEB COPY



O.P.No.50 of 2024

Dr.G.JAYACHANDRAN,J.

bsm

Original Petition No.50 of 2024

21.12.2024