



O.P.No.540 of 2023

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C.V.KARTHIKEYAN,J.

This Original Petition has been filed under Sections 222 and 276 of the Indian Succession Act, 1925 along with the relevant rules of the Original Side of Madras High Court seeking probate of the last Will dated 13.05.1978.

2.The petitioner and the respondents are the sons and daughters of Mr.K.M.Kandaswami. The executor, Mr.K.M.Kandaswami, died on 18.10.2003. Under the Will, he had granted life estate to his wife Smt.K.Aravamdavalay Thayar and she died only on 05.02.2013. It is stated that, thereafter the petitioner was under the impression that probate would be required only when a dispute was raised. Thereafter, Covid-19 pandemic set in and the petitioner now seeks probate.

3.The respondents who are relatives have been served but they did not appear before the Court.



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smv

4.After following due procedure, the petitioner was directed to tender evidence. Accordingly, he examined himself as PW-1. The original Will dated 13.05.1978 was marked as Ex.P1. The death certificates of his mother and father were marked as Exs.P2 and P3. The affidavit of assets was marked as Ex.P4. Owing to the long period from the date of execution of the Will, unfortunately, both the attesting witnesses had died and the petitioner had taken recourse to Section 69 of the Indian Evidence Act, 1872 and examined Mr.V.Rajaram as PW-2. He stated that he was well acquainted with one of the attesting witness Mr.Yuvaraj and was acquainted with his signature also. He identified the signature in Ex.P1.

5.Taking into consideration all these facts, probate of the will of K.M.Kandaswami is granted as prayed for. Accordingly, this Original Petition is allowed. The Registry to issue probate order in accordance with the rules.

11.06.2024

smv

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