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O.P.No.148 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2024

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

O.P.No.148 of 2019

Vepa Krishna

...

Petitioner

Vs.

1. Ravindra Kumar Bhuwalka

2. Rajkumar Bhuwalka

Kumaran Charitalbe Old Age Home,
No.7, Mosque Street,
Pattabhiram, Chennai 600 072.

3. Kumkum Goenka

...

Respondents

PRAYER: Original Petition has been filed under under Section 222 and 276 and Part X of the Indian Succession Act, 1925 read with Order XXV Rule 4 of the Original Side Rules, praying that the petitioner may be allowed to prove the Will in common form and that probate thereof to have effect throughout the State of Tamil Nadu may be granted to him.

For Petitioner : Mr.K.S.V.Prasad

For R1 : Mr.S.Ravi



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ORDER

This Original Petition has been filed under under Section 222 and 276 and Part X of the Indian Succession Act, 1925 read with Order XXV Rule 4 of the Original Side Rules, praying that the petitioner may be allowed to prove the Will in common form and that probate thereof to have effect throughout the State of Tamil Nadu may be granted to him.

2. The learned counsel for the petitioner submitted that the petitioner is the Executor appointed under the Will. The Testator died on 4th March 2007 at Apollo Hospitals, 21 Greaves Road, Chennai 600 006, leaving behind an immovable property. The Testator's elder son is Mr.Ravindra Kumar Bhuwarka, his younger son is Mr.Rajkumar Bhuwarka and his daughter is Mrs.Kumkum Goenka. The parents and wife Mrs.Uma Devi Bhuwarka of the deceased Testator predeceased him. The 2nd respondent is not fully mentally developed and therefore an application of Guardian ad litem was filed. By an order dated 06.02.2024 made in Application No.8278 of 2018 in O.P.No.148 of 2019, this Court appointed Mr. Ravindra Kumar Bhuwarka as the guardian for 2nd respondent. All the legal heirs of the Testator have been shown as the respondent herein.



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3. The learned counsel for the petitioner further submitted that the total value of the assets after deducting all items which the petitioner is allowed by law to deduct does not exceed the amount of Rs.16,39,500/- held in the State Bank of Hyderabad (now State Bank of India), as can be seen from the pass book of the bank (Ex.B3). It is submitted that the respondents 1 and 3 have no objection to the issuance of probate of Will to the petitioner and have also executed consent affidavit.

4.The petitioner examined himself as P.W.1 and marked Exs.P1 to P4. Mr.S.Rajaraman, the 2nd attester was examined as P.W.2 and marked Ex.P5. He deposed that at the time of the execution of the Will, the Testator was in a sound state of mind and in good health.

5. After perusing the evidence of P.W.1 and P.W.2 and Exs.P1 to P4, I find that the Will has been made out.

6. Accordingly, the Original Petition is allowed. In respect of the share of the 2nd respondent who is now in the care and custody of the Home as mentioned in the cause title, the Executor is directed to maintain necessary



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accounts for the amount and pay the amount due to Kumaran Charitable Old

Age Home and file a statement once in a year on or before 30th of march.

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Neutral Citation: Yes/No

Speaking order : Yes/No

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APPENDIX

Petitioner's witness:

P.W.1 - Mr. Vepa Krishna

P.W.2 - Mr.S.Rajaraman

Documents marked:

<i>S.No</i>	<i>Particulars</i>	<i>Exhibits</i>
1	Original Will dated 06.01.2005 executed by Mr.Indra Kumar Bhuwalka.	P1
2	Original death certificate of Mr.Indra Kumar Bhuwalka.	P2
3	Original Bank passbook of Mr.Indra Kumar Bhuwalka in State Bank of Hyderabad, Thousand Lights Branch, Chennai 600 014.	P3
4	Affidavit of assessts showing the net value of the estate as Rs.16,39,500/-.	P4
5	Photocopy of Aadhar Card (P.W.2).	P5

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RMT. TEEKAA RAMAN, J.

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