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O.P.No.407 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **24.04.2025**

CORAM

THE HONOURABLE **MR.JUSTICE K.KUMARESH BABU**

O.P.No.407 of 2024

S.Sivaprasad

...Petitioner

VS.

S.Sivaprabha

...Respondent

PRAYER: Original Petition filed under Section 222 & 276 of the Indian Succession Act 1925 read with Order XXV Rule 4 of O.S.Rules, prayed that this Hon'ble Court may be pleased to allow the petitioner herein to prove the Will dated 22.04.2004 in Doc.No.20/2004 of the said deceased S.Shivamani in common form, and that probate thereof, to have effect limited to the State of Tamil Nadu may be granted to the petitioner herein.

For Petitioner : Mr.D.Ravichander

For Respondent : Mr.K.Mohammed Hyder Ali

ORDER

This Original Petition has been filed for issuance of Probate for the Last Will and Testament dated 22.04.2004 executed by Late.Mr.S.Shivamani, who died on 04.01.2023. The petitioner has been appointed as executor under



the Will.

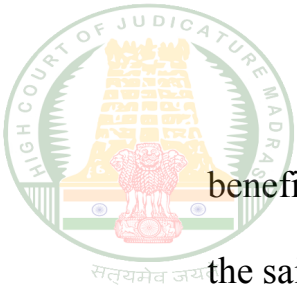
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2. The petitioner is the son and the respondent is the daughter of the testator. The petitioner is the absolute beneficiary named in the said Will of the testator dated 22.04.2004 registered as Doc.No.20/2004. The respondent has also filed her consent affidavit expressing her consent for the grant of probate.

3. The petitioner has been examined as PW1 and he has marked 7 documents as Ex.P1 to P7 which has been listed under the foot of the order. He has produced the original registered Will dated 22.04.2004 registered under the Document No.20 of 2004 as Ex.P1. The original registered Will dated 22.04.2004 registered under the Document No.19 of 2004, executed in favour of the respondent has been marked as Ex.P2. The computer generated death certificate of Late.Mr.S.Shivamani has been marked as Ex.P3. The computer generated certificate of family tree of the petitioner's family issued by the Government of Karnataka has been marked as Ex.P4. A perusal of Ex.P4 makes it clear that the petitioner and the respondent are the only legal heirs of the testator. From Ex.P1 it is clear that the petitioner is the sole



beneficiary for the property mentioned in the schedule of the petition under the said Will dated 22.04.2004, executed by the testator.

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4. Mr.S.Balaji Rao, who was the first attesting witness to Ex.P1 has been examined as PW2. The attesting witness had spoken about the execution of the Will by the testator and its attestation by him and the second attestator and marked his affidavit as Ex.P9.

5. The respondent Mrs.Sivaprabha has been examined as RW1. The respondent and the respondent has expressed her consent to grant the probate in favour of the petitioner and marked her affidavit as Ex.R2.

6. The assertions in the petition have been duly proved by adducing oral evidence supported by documents. In these circumstances, the petitioner is entitled to the relief.

7. In view of the said evidence, the execution of Will stands proved. Hence, the Original Petition is allowed granting probate of the last Will and testament dated 22.04.2004, registered under the Document No.20 of 2004,



marked as Ex.P1. The petitioner is directed to produce the certified copy of the document Ex.P2 and the original document may be returned to the petitioner as requested.

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Index :Yes/No

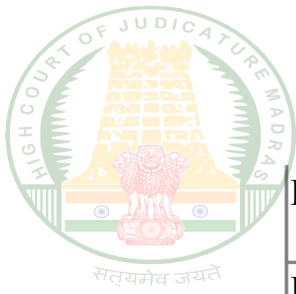
Petitioner's witness:

P.W.1 – Mr.S.Sivaprasad

P.W.2 – Mr.S.Balaji Rao

Documents exhibited by the petitioner:

Exhibits	Documents
Ex.P1	Original registered Will dated 22.04.2004 executed by Mr.S.Shivamani in favour of the petitioner Mr.S.Shivaprasad.
Ex.P2	Original registered Will dated 22.04.2004 executed by Mr.S.Shivamani in favour of the respondent, Mrs.S.Sivaprabha, the respondent. (This document is marked subject to its proof and relevancy)
Ex.P3	Computer generated death certificate of Mr.Shivarajam Shivamani.
Ex.P4	Computer generated certificate of family tree of the petitioner family issued by the Government of Karnataka on request of the petitioner.
Ex.P5	Original sale deed dated 08.03.1956 executed in favour of Mr.S.Shivamani.
Ex.P6	Certificate under Section 65 B of the Indian Evidence Act, 1872.



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Ex.P7	Affidavit of assets showing the net value of the estate as Rs.50,00,000/-
Ex.P8	Photocopy of Aadhaar Card of the P.W.2 (Compared with the original)
Ex.P9	Affidavit of P.W.2

Respondent's witness:

R.W.1 – Mrs.Sivaprabha.S

Documents exhibited by the Respondents:

Exhibits	Documents
Ex.R1	Photocopy of Aadhar card.
Ex.R2	Consent affidavit.

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K.KUMARESH BABU, J.

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