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O.P.No.435 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **07.08.2025**

CORAM

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

**O.P.No.435 of 2024**

Thomas Mathew

...Petitioner

vs.

1.Mini Thomas

2.Manoj Mathew

3.Rinky Suzannah Chacko

4.Talia Susan Jacob

5.Jayden Mathew Jacob

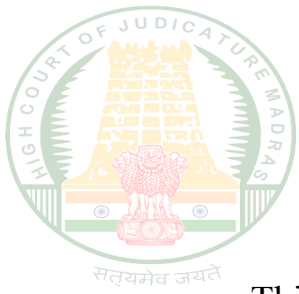
...Respondents

**PRAYER:** Original Petition filed under Sections 222 and 276 of the Indian Succession Act, (Act XXXIX of 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 to grant Probate thereof, to have effect throughout the State of Tamil Nadu.

For Petitioner : Mr.N.Ramachandran

For Respondents : Mr.S.Arunkumar for R3  
R1, 2, 4 and 5 – No appearance

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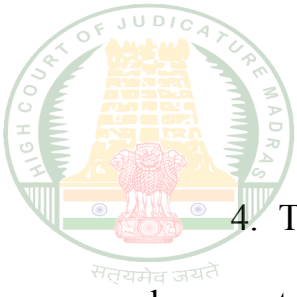
## **ORDER**

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This Original Petition has been filed for issuance of Probate for the Last Will and testament dated 25.06.2019 executed by Mr.M.M.Mathai, who died on 17.05.2023. The petitioner has been appointed as executor under the Will.

2. The petitioner submits that the testator had gotten married to one named Mrs.Soosamma Mathai and had begotten the respondents 1 and 2 along with one Mr.Jacob Mathew as his children. The petitioner further submits that he is the husband of the 1<sup>st</sup> respondent, the daughter of the testator. The said Mrs.Soosamma Mathai, the wife of the testator predeceased her husband on 14.02.2016 and subsequently Mr.Jacob Mathew, one of the sons of the testator had also predeceased the testator on 15.10.2018, leaving behind the respondents 3 to 5 as his legal heirs. The respondent 4 and 5 being the minor children of Late.Mr.Jacob Mathew are represented by their mother, the 3<sup>rd</sup> respondent herein.

3. The petitioner asserts that the testator before his demise had executed a Will on 25.06.2019 which is registered as Document No.27 of 2019, Book-III in the SRO of Kodambakkam. Through the aforesaid will the testator had named his daughter, the 1<sup>st</sup> respondent herein as the sole beneficiary of the will and had appointed the petitioner as the executor of the same.



4. The petitioner has been examined as PW1 and he has produced 10 documents to support his deposition which are listed as Ex.P1 to Ex.P10 at the foot of the order. The original Will and Testament dated 25.06.2019 of the testator has been marked as Ex.P1. The online copies of the death certificates of the testator, Late.Mrs.Soosamma Mathai who is the wife of the testator and Late.Mr.Jacob Mathew who is one of the sons of the testator have been marked as Ex.P2, Ex.P3 and Ex.P5 respectively. The online copy of the legal heirship certificate of the testator has been marked as Ex.P4. The perusal of the Ex.P1, clearly substantiates the averments made in the petition and establishes that the 1<sup>st</sup> respondent is the sole beneficiary named in the Will, under which the petitioner has been appointed as the executor. The Affidavit of assets have been marked as Ex.P8.

5. The petitioner has examined Mr.U.Kumaran and Mrs.Mary Mathew who are the 1<sup>st</sup> and 2<sup>nd</sup> attesting witnesses to the Will as PW2 and PW3 respectively. Both the attesting witnesses spoke about the execution of the Will by the testator and its attestation by them. They have also identified the signature of the testator in the Original Will which has been marked as Ex.P1.

6. The service of notices upon the respondents 1 to 5 has been completed.



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The 1<sup>st</sup> and 3<sup>rd</sup> respondent have expressed their consent to grant the Probate of the Will dated 25.06.2019 executed by the testator infavour of the petitioner and their respective consent affidavits have been marked as Ex.P9 and Ex.P10 respectively. The learned counsel for the 3<sup>rd</sup> respondent appeared and has reiterated the respective consent affidavit of the respondent.

7. 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.

8. 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 25.06.2019.

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Index :Yes/No



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**Petitioner's witness:**

P.W.1 – Mr.Thomas Mathew

P.W.2 – Mr.U.Kumaran

P.W.3 – Mrs.Mary Mathew

**Documents exhibited by the petitioner:**

| Exhibits | Documents                                                                       |
|----------|---------------------------------------------------------------------------------|
| Ex.P1    | Original last Will and Testament dated 25.06.2019 of deceased M.M.Mathai.       |
| Ex.P2    | Online copy of the Death Certificate of M.M.Mathai dated 17.06.2023.            |
| Ex.P3    | Online copy of the Death Certificate of Mrs.Soosamma Mathai dated 21.03.2024.   |
| Ex.P4    | Online copy of the Legal heirship certificate of M.M.Mathai dated 28.09.2023.   |
| Ex.P5    | Online copy of the Death Certificate of Jacob Mathew dated 16.04.2024.          |
| Ex.P6    | Online copy of Property Tax Receipt in the name of M.M.Mathai dated 28.07.2021. |
| Ex.P7    | Photocopy of the Aadhar card.                                                   |
| Ex.P8    | Affidavit of assets filed by the petitioner.                                    |
| Ex.P9    | Consent affidavit of the 1 <sup>st</sup> respondent.                            |
| Ex.P10   | Consent affidavit of the 3 <sup>rd</sup> respondent.                            |

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**K.KUMARESH BABU, J.**



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