



WEB COPY

O.P.No.345 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **30.04.2025**

CORAM

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

O.P.No.345 of 2024

Mrs.Dharani

...Petitioner

vs.

1.Mr.A.G.S.Balasundaram
2.Mr.Bathmanathan @ Baskar
3.Mrs.Indrani
4.Mrs.Hemalatha Sridhar
5.Mrs.R.Vasanth
6.Mrs.R.Komalavalli
7.Mr.R.Naresh Kumar

...Respondents

PRAYER: Original Petition filed under Section 222 & 276 of Indian Succession Act XXXIX of 1925 under Order XXV, Rule 5 of O.S. Rules, praying that she may be allowed to prove the Will in common form, and that probate therefore, to have effect throughout the whole of State of Tamil Nadu, may be granted to her.

For Petitioner : Mr. C. Balaji

For Respondents : M/s.M.Janaki
(For R1 & R3)

R2 – Set exparte

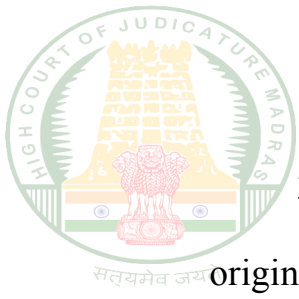
Mr.T.Dhanasekaran
(For R4 to R7)

**ORDER**

This Original Petition has been filed for issuance of Probate for the

Last Will and testament dated 22.03.2013 executed by Late.Mr.A.G.S.Kalyanasundaram, who died on 16.03.2014. The petitioner has been appointed as executor under the Will.

2. The petitioner and the respondents 3, 4 and 6 are the nieces of the testator through his brothers, the respondents 1, 2 and 7 are the nephews of the testator through his brothers and the 5th respondent is the sister-in-law of the testator through his brother A.G.S.Radhakrishnan. The petitioner and the 3rd and 4th respondents who are the daughters of the eldest brother of the testator A.G.S.Palanivelu, are the named as the beneficiaries under the said Will. The petitioner along with the 3rd and 4th respondents are named as the beneficiaries for the property under the schedule 'A' of the Will and the petitioner alone is named as the sole beneficiary for the property mentioned under the schedule 'B' of the Will. All the respondents except the 2nd respondent have expressed their consent to grant the probate in favour of the petitioner and their corresponding consent affidavits have been filed after the completion of service of notices.



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3. The petitioner has been examined as PW1. She has produced the original will dated 22.03.2013 as Ex.P1. The death certificates of the testator and the Late.Mrs.Vasantha the wife of the tesator has been marked as Ex.P5 and Ex.P4. The service of notices has been completed upon the respondents 1 to 7 but inspite of the notice the 2nd respondent has not appeared either in person nor through a counsel and therefore the 2nd respondent was set *ex-parte* vide order dated 09.04.2025. The counsels for the respondents 1 and 3 and for the respondents 4 to 7 have appeared on behalf of them and expressed the consent of the respondents to grant the probate and filed their respective consent affidavits. On perusal of Ex.P1 it is clear that the petitioner has been appointed as the executor and she along with the respondents 3 and 4 are the only beneficiaries named under the said will.

4. Mr.H.Saravanan, who was the first attesting witness to the said Will 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 other attestator and marked his affidavit as Ex.P9.

5. 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.

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6. 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 22.03.2013.

30.04.2025

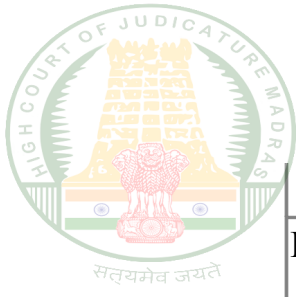
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Index :Yes/No

Petitioner's witness:

P.W.1 – Mrs.Dharani
P.W.2 – Mr.H.Saravanan
P.W.3 – Mr.K.Sivakumar

Documents exhibited by the petitioner:

Exhibits	Documents
Ex.P1	Original Will dated 22.03.2013.
Ex.P2	Certified copy of the sale deed registered as Doc.No.415/1973 dated 25.01.1973.
Ex.P3	Certified copy of the partition deed registered as Doc.No.1732/2007 dated 16.07.2007.
Ex.P4	Computer generated copy of the death certificate of Mrs.Vasantha.
Ex.P5	Computer generated copy of the death certificate of Mr.A.G.S.Kalyanasundaram.
Ex.P6	Photocopy of the property tax collection receipt.
Ex.P7	Photocopy of the Aadhar Card of mine/petitioner.



WEB COPY

O.P.No.345 of



	(Compared with original)
Ex.P8	Affidavit of assets showing the net value of the estate Rs.27,00,000/-
	The consent affidavits of R1, R3 to R7 are filed.
	Certificate under Section 65 B of Indian Evidence Act is filed for Exs.P4 and P5.
Ex.P9	Affidavit.
Ex.P10	PAN Card of the 1 st attesting witness is marked as Ex.P10.
Ex.P11	Affidavit.
Ex.P12	Photocopy of the Aadhar Card of the 2 nd attesting witness is marked as Ex.P12. (Compared with original)

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K.KUMARESH BABU, J.



WEB COPY

O.P.No.345 of



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30.04.2025