



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **01.07.2025**

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

O.P.No.831 of 2023

1.A.Srinivasan
2.A.Ramakrishnan

...Petitioners

VS.

1.Danalakshmi
2.Shanmugavalli
3.Raju
4.R.Suresh
5.R.Kumar
6.Suganya

...Respondents

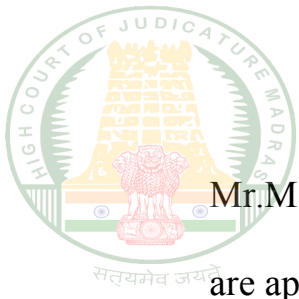
PRAYER: Original Petition filed under Section 222 & 276 of Indian Succession Act, read with Order No.XXV Rule 4 of Original Side Rules, praying that he may be allowed to prove the Will in common form, and that probate thereof to have effect throughout Tamil Nadu State, may be granted to the petitioners.

For Petitioners : Mr.S.G.Ramesh

For Respondents : No appearance - Served

ORDER

This Original Petition has been filed for issuance of Probate for the Last Will and testament dated 18.03.1993 executed by Late



Mr.M.Arunachalam, who died on 19.02.1995. Both the 1st and 2nd petitioners are appointed as executors under the Will.

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2. The petitioners submit that the testator got married to one Tmt.Deivanai and had begotten the 2nd petitioner, 2nd respondent, 3rd respondent and one Late Mrs.R.Banumathy as his only children. The 1st petitioner is the husband of the 1st respondent and hence the son-in-law of the testator. The petitioners submit that one of the daughters of the testator Late Mrs.R.Banumathy died on 23.07.2022 and her legal heirs have been impleaded as respondents 3 to 6 to this petition. The petitioners further submits that the before his death the testator had executed a Will on 18.03.1993, registered as Document No. 63 in Book III of 1993.

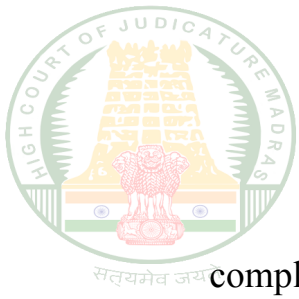
3. The 2nd petitioner has been examined as PW1. He has produced 7 documents to support his deposition which are listed as Ex.P1 to Ex.P7 at the foot of the order. The original Will and testament dated 18.03.1993 executed by the testator has been marked as Ex.P1. The death certificate of the testator has been marked as Ex.P2. The legal heirship certificate of the testator has been marked as Ex.P3. The computer generated death certificates of Mrs.A.Deivanai and Mr.R.Banumathy has been marked as Ex.P4 and Ex.P5.



The legal heirship certificate of Mrs.R.Banumathy has been marked as Ex.P6.

A perusal of Ex.P1 clearly proves that the both the petitioners 1 and 2 are the executors appointed by the testator to the said Will dated 18.03.1993. On further perusal of Ex.P1 it can be seen that testator had named his children, viz., the 2nd petitioner, the 1st and 2nd respondents and his deceased daughter Late Mrs.Banumathy, along with their children as the beneficiaries under the said Will.

4. The learned counsel for the petitioner had taken out an Application No.768 of 2025 to issue a subpoena to the 1st attesting Witness of the Will which was allowed *vide* order dated 19.02.2025. Due to some defects another Application No.1588 of 2025 was taken out to rectify the name of the 1st attesting witness and issue the subpoena to his new address. The above Application No.1588 of 2025 was allowed, and a subpoena was issued *vide* order dated 03.04.2025 to one Mr.B.Dhanaraj who is the 1st attesting witness to the Will dated 18.03.1993. The said Mr.B.Dhanaraj has been examined as PW2. He has spoken about the execution of the Will by the testator and its attestation by him.



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5. The service of notices upon the respondents 1 to 6 had been completed. The respondents 1 to 6 have expressed their consent to grant the probate of the Will dated 18.03.1993, which was filed along with the petition. In spite of the service being completed the respondents chose to keep themselves away from the proceedings.

6. The assertions in the petition have been duly proved by adducing oral evidence supported by documents. In these circumstances, the petitioners are 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 18.03.1993.

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Index :Yes/No

Petitioner's witness:

P.W.1 – Mr.Mr.A.Ramakrishnan

P.W.2 – Mr.B.Dhanaraj



Documents exhibited by the petitioners:

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Exhibits	Documents
Ex.P1	Original registered Will and Testament dated 18.03.1993 executed by Mr.M.Arunachalam.
Ex.P2	Death certificate of Mr.M.Arunachalam.
Ex.P3	Legal heirship certificate of Mr.M.Arunachalam.
Ex.P4	Computer generated death certificate of Mrs.A.Deivanai.
Ex.P5	Computer generated death certificate of Mrs.R.Banumathi.
Ex.P6	Computer generated legal heirship certificate of Mrs.R.Banumathi.
Ex.P7	Affidavit of assets showing the net value of the estate as Rs.2,00,00,000/-
Ex.P8	Photocopy of Aadhaar Card of P.W.2 (Compared with the original)

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