



WEB COPY

O.P.No.140 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **13.02.2025**

CORAM

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

O.P.No.140 of 2014

Mr.Manish Tiwari

...Petitioner

Vs.

1.Mr.Kishore Tiwari (Deceased)

2.Mr.Pradeep Tiwari

3.Mr.Giridhar Tiwari

4.Mrs.Krishna Bai Dahima

5.Mrs.Vimala Bai Bhabda

6.Mr.Rameshwar Joshi

7.Mr.Madhu Sudan Joshi

8.Mr.Sunil Kumar Joshi

9.Mr.Govind Kanth Joshi

10.Mrs.Hemlatha Acharya

11.Mrs.Parvati Tiwari

12.Mrs.Kirthi Tiwari

13.Miss.Tejaswini Tiwari.

(Respondents 11 to 13 brought on record as
legal heirs of deceased 1st respondent Mr.Kishore
Tiwari as per order in Application No.5623 of 2022
dated 04.01.2023)

...Respondents

PRAYER: Original Petition filed under Sections 222 and 276 of the Indian Succession Act read with Order XXV Rule 4 of O.S.Rules, praying to prove the WILL in common form, and that probate thereof, to have effect limited to the State of TAMIL NADU, may be granted to him.



For Petitioner : M/s.Shah & Shah

ORDER

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This Original Petition has been filed for issuance of Probate for the Last Will and testament dated 08.02.2002 executed by Late.Kishanlal Tiwari, who died on 15.01.2006 as a bachelor. The petitioner and one Poonamchand Tiwari were appointed as Executors under the will by the testator and the petitioner alone filed this present petition since, his father Poonamchand Tiwari died.

2. The petitioner is the nephew of the testator through his deceased brother. The respondents 1 to 5 are the siblings of the testator and the respondents 6 to 10 are the nephews and niece of the testator through his deceased sister. During the pending litigation, the first respondent died and the legal heirs of the first respondent brought on record as the respondents 11 to 13 as per order dated 04.01.2023. The respondents 1 to 12 submitted their consent affidavits.

3. The petitioner has examined himself as PW1. He has produced the death certificates of Late.Kishanlal Tiwari and testator parents as Ex.P2, Ex.P3 and Ex.P4. The original will dated 08.02.2002 as Ex.P1. The third



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respondent has been examined as RW1 and marked the consent affidavit of the respondents 1 to 12 as Ex.R1 to Ex.R12. A paper publication has been made and any objection has not been received.

4. Mr.Umashanker Chaurasiya and Mr.Gouri Shanker Sharma, who are the attesting witnesses to the said Will has been examined as PW2 and PW3. The attesting witnesses spoken about the execution of the Will by the testator and its attestation by them and marked their affidavit as Ex.P12 and Ex.P14.

5. 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 08.02.2002.

13.02.2025

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Index :Yes/No

Petitioner's witness:

P.W.1 - Mr.Manish Tiwari

P.W.2 – Mr.Umashanker Chaurasiya

P.W.3 – Mr.Gouri Shanker Sharma

Documents exhibited by the petitioners:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Original Will dated 08.02.2002 executed by Mr.Kishanlal Tiwari.



<i>Exhibits</i>	<i>Documents</i>
Ex.P2	Computer generated death certificate of Mr.Kishanlal Tiwari.
Ex.P3	Computer generated death certificate of Mr.Mohan Lal.
Ex.P4	Original death certificate of Mr.Gulab Bai Tiwari.
Ex.P5	Original death certificate of Mrs.Radha Devi.
Ex.P6	Original property tax demand card in respect of the property standing in the name of Mr.M.Kishore Tiwari and two others.
Ex.P7	Photocopy of my Aadhaar Card (Compared with the original)
Ex.P8	Certificate under Section 65B of the Indian Evidence Act, 1872.
Ex.P9	Affidavit of assets showing the net value of the estate as Rs.17,97,180/-.
Ex.P10	Copy of paper publication effected in one issue of Tamil daily "Malai Sudar" dated 05.08.2017.
Ex.P11	Copy of paper publication effected in one issue of English Daily "News Today" dated 05.08.2017.
Ex.P12	My affidavit.
Ex.P13	Photocopy of my Aadhaar Card (Compared with the original)
Ex.P14	My affidavit.
Ex.P15	Photocopy of my Aadhaar Card (Compared with the original)

Respondent's witness:

R.W.1 - Mr.Giridhar Tiwari

Documents exhibited by the petitioners:

<i>Exhibits</i>	<i>Documents</i>
Ex.R1	Consent affidavit given by the second respondent.
Ex.R2	Consent affidavit given by me.
Ex.R3	Consent affidavit given by the fourth respondent.
Ex.R4	Consent affidavit given by the fifth respondent.
Ex.R5	Consent affidavit given by the sixth respondent.



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<i>Exhibits</i>	<i>Documents</i>
Ex.R6	Consent affidavit given by the seventh respondent.
Ex.R7	Consent affidavit given by the eighth respondent.
Ex.R8	Consent affidavit given by the ninth respondent.
Ex.R9	Consent affidavit given by the tenth respondent.
Ex.R10	Consent affidavit given by the eleventh respondent.
Ex.R11	Consent affidavit given by the twelfth respondent.
Ex.R12	Consent affidavit given by the thirteenth respondent

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