



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2025

WEB COPY

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

O.P.No.794 of 2023

S.Selvaraj

...Petitioner

vs.

Jayendar Rajagopalan

...Respondent

PRAYER: Original Petition filed under Section 222 & 276 of the Indian Succession Act 1925 (XXXIX of 1925) read with Order XXV Rule 4 of the Original Side Rules, 1956, prays that this Hon'ble Court may be pleased to,

(a) Allow the petitioner to prove the unregistered WILL of the Testator dated 28.11.2022 in common form and that probate thereof to have effect throughout the State of Tamil Nadu may be granted to the petitioner.

(b) Grant such other relief as the Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner : Mr.F.Arif Nawaz

For Respondent : Mr.P.Asaithambi

ORDER

This Original Petition has been filed for issuance of Probate for the Last Will and testament dated 28.11.2022 executed by Late.Mrs.R.Mangalam, who died on 22.12.2022. The petitioner has been



appointed as executor under the Will.

WEB COPY

2. The respondent is the only son and the immediate legal heir of the testatrix. The petitioner submits he has been residing with the testatrix and has been taking care of the testatrix for the last 30 years. The petitioner has been named as the sole beneficiary in the said Will of the testator. The respondent has been served with the notice and the he has expressed his consent to grant the probate in favour of the petitioner and had filed his consent affidavit.

3. The petitioner has been examined as PW1. He has produced the original will dated 28.11.2022 as Ex.P4. The death certificate of testatrix has been marked as Ex.P5. The Legal heir certificate of testator has been marked as Ex.P6. The perusal of Ex.P4 clearly proves that the petitioner who is appointed as the executor is named as the sole beneficiary under the said Will dated 28.11.2022.

4. The respondent has been chief examined as the RW1. The respondent has expressed his consent to grant of probate in favour of the petitioner and has marked his consent affidavit as Ex.R1.



WEB COPY

5. The petitioner has examined Mr.M.Sadhasivam and Mrs.Rekha Sadhasivam, who were the second and first attesting witnesses to the said Will as PW2 and PW3 respectively. The attesting witnesses have spoken about the execution of the Will by the testator and its attestation by them and marked their affidavit as Ex.P10 and Ex.P11.

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 28.11.2022.

16.04.2025

kak

Index :Yes/No

Petitioner's witness:

P.W.1 – Mr.S.Selvaraj

P.W.2 – Mr.M.Sadhasivam

P.W.3 – Mrs.Rekha Sadhasivam



Documents exhibited by the petitioners:

WEB COPY

Exhibits	Documents
Ex.P1	Photocopy of the sale deed dated 22.02.1996 executed in favour of Mrs.Mangalam Rajagopal. (Compared with the original)
Ex.P2	Photocopy of the sale deed dated 20.11.1991 executed in favour of Mrs.R.Mangalam. (Compared with the original)
Ex.P3	Photocopy of the sale deed dated 15.11.2006 executed in favour of Mrs.R.Mangalam (Compared with the original)
Ex.P4	Original unregistered Will and Testament dated 28.11.2022 executed by Mrs.R.Mangalam.
Ex.P5	Computer generated death certificate of Mrs.R.Mangalam.
Ex.P6	Computer generated legal heir certificate of Mrs.R.Mangalam.
Ex.P7	Photocopy of Aadhaar Card (Compared with the original)
Ex.P8	Affidavit of assets showing the net value of the estate as Rs.1,50,00,000/-
Ex.P9	Certificate under Section 65 B of the Indian Evidence Act, 1872.
Ex.P10	Affidavit.
Ex.P11	Affidavit.

Respondent's witness:

R.W.1 – Mr.Jayendar Rajagopalan

Documents exhibited by the Respondent:

Exhibit	Document
Ex.R1	Consent affidavit.

16.04.2025

kak



WEB COPY

O.P.No.794 of



K.KUMARESH BABU, J.

kak

O.P.No.794 of 2023

16.04.2025