



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **17.04.2025**

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

O.P.No.466 of 2023

Mrs.Hemavathy

...Petitioner

VS.

1.S.Thiagarajan

2.S.Harikumar

3.Smt.S.Jayashree

...Respondents

PRAYER: Original Petition filed under Section 222 and 276 of the Indian Succession Act, 1925, and under Order XXV Rule 4 of O.S. Rules of High Court, prays that the petitioner may be allowed to prove the Will dated 27.08.2009, annexed executed by Late G.Sripathy, to and in favour of Mrs.S.Hemavathy, the petitioner herein in common form, and that probate thereof, to have effect throughout the State of Tamil Nadu may be granted to her.

For Petitioner : Mr.K.Venkatesan

For Respondents : No appearance

ORDER

This Original Petition has been filed for issuance of Probate for the Last Will and testament dated 27.08.2009 executed by Late.Mr.G.Sripathi, who died on 21.05.2021. The petitioner has been appointed as executor under



the Will.

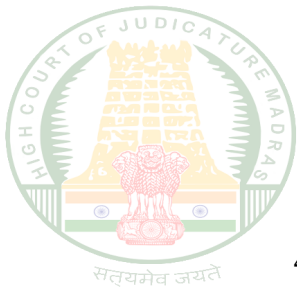
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2. The petitioner is the wife of the testator and the respondents 1 to 3 are the children of the testator. The testator had executed the Will dated 27.08.2009, where he had named the petitioner as the only beneficiary. The testator died on 21.05.2021, leaving behind the petitioner and the respondents as his immediate legal heirs. The 1st and 2nd respondents have expressed their consent to grant the probate of the Will in favour of the petitioner and their consent affidavits have been filed along with the petition. The service of notice has been completed upon the respondents. In spite of the notice the 1st and 2nd respondents kept themselves away from the proceedings, the learned counsel for the 3rd respondent reported that there is no cross examination and no evidence of R3

3. The petitioner has been examined as PW1. She has produced the original will dated 27.08.2009 as Ex.P1. The death certificate of the testator has been marked as Ex.P2. The affidavit of assets has been marked as Ex.P5. The perusal of Ex.P1 clearly proves that the petitioner is the sole beneficiary named under the said Will and had also been appointed as the executor of the Will dated 27.08.2009.



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4. Mr.K.Radhakrishnan, 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 second attesting witness and marked his affidavit as Ex.P7.

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.

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 27.08.2009.

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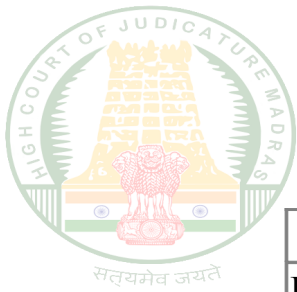
Index :Yes/No

Petitioner's witness:

P.W.1 – Mrs.Hemavathy

P.W.2 – Mr.K.Radhakrishnan

Documents exhibited by the petitioner:



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Exhibits	Documents
Ex.P1	Original registered Will dated 27.08.2009 executed by Mr.G.Sripathi.
Ex.P2	Computer generated death certificate of Mr.G.Sripathi.
Ex.P3	Computer generated death certificate of Mr.Janarthanam.
Ex.P4	Downloaded copy of the market value of the petition schedule mentioned property.
Ex.P5	Affidavit of assets showing the net value of the estate as Rs.79,22,080/-
Ex.P6	Certificate under Section 65 B of the Indian Evidence Act, 1872.
Ex.P7	Affidavit.
Ex.P8	Photocopy of Aadhaar Card (Compared with the original)

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K.KUMARESH BABU, J.

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