



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **27.06.2025**

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

O.P.No.175 of 2023

S.Savarimalai

...Petitioner

VS.

1.Mrs.S.Ponnuthai

2.Mrs.A.Ramuthai

3.Mrs.R.Lakshmi

...Respondents

PRAYER: Original Petition filed under Section 222 and 276 read with Order XXV Rule 4 of the O.S.Rules, praying that this Hon'ble Court may be pleased to permit the petitioner to prove the Will and Codicil to 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 : Mr.P.Magesh

For Respondents : Mr.G.Suresh Kumar (For R1 & R3)
R2 – No appearance (Served)

ORDER

This Original Petition has been filed for issuance of Probate for the Last Will dated 17.03.2006 and Codicil dated 07.02.2009 executed by Late Mr.V.Sivagnanam, who died on 04.06.2009.



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2. The petitioner submits that he is the son of the testator and the respondents 1 to 3 are the daughters of the testator. The petitioner submits that the testator before his death had executed a Will on 17.03.2006. Later he rectified the schedule property described in the will dated 17.03.2006 by executing a codicil on 07.02.2009. The testator had named his son, herein the petitioner as the sole and the absolute beneficiary of the immovable property in both the Will dated 17.03.2006 and the codicil dated 07.02.2009. It can be seen that testator had explicitly stated in the will and the codicil that he has not appointed any executor to the above said Will but the beneficiary of the Will may have the power to execute the Will dated 17.03.2006.

3. The petitioner has been examined as PW1 and he had produced 7 documents to support his deposition which are listed as Ex.P1 to Ex.P7 at the foot of the order. He has produced the Original Will dated 17.03.2006 as Ex.P1 and the original Codicil dated 07.02.2009 as Ex.P2. The computer generated death certificate of the testator has been marked as Ex.P3. The photocopy of the Allotment order given by the Slum Clearance Board has been marked as Ex.P5. A combined perusal of the Ex.P1 and Ex.P2 proves that the petitioner is sole beneficiary named under the said Will and therefore he acquires the power to act as the executor of the Will. From the perusal of

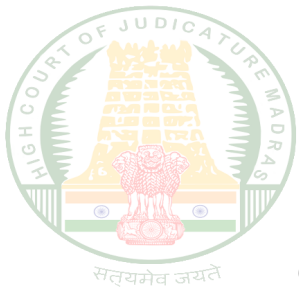


Ex.P4 it can be seen that the petitioner and the respondents are the only legal heirs of the testator.

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4. The service of notices upon the respondents 1 to 3 has been completed. The 1st and 3rd respondents have expressed their consent to grant the probate of the Will and Codicil executed by the testator and their respective consent affidavits have been filed along with the petition. The learned counsel for the respondents 1 and 3 appearing on behalf of them had reiterated the respective consent affidavits of the respondents. In spite of the service upon the 2nd respondent being completed, she chose to keep herself away from the proceedings.

5. The petitioner has examined Mr.U.Raman, who is the 2nd attesting witness to the Will dated 17.03.2006 and one of the attesting witness to the Codicil dated 07.02.2009 as PW2. He had spoken about the execution of the Will by the testator and its attestation by him along with the 1st attesting witness Mr.C.Murugan and has marked his affidavit as Ex.P8. He has also spoken about the execution of the Codicil dated 07.02.2009 by the testator and its attestation by him and another attesting witness and has marked his affidavit as Ex.P9.



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6. Mr.C.Murugan who is the 1st attesting witness to the Will dated 17.03.2006 has been examined as PW3. He has spoken about the execution of the Will by the testator and its attestation by and has marked his affidavit as Ex.P11.

7. 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.

8. In view of the said evidence, the execution of Will stands proved. Hence, the Original Petition is allowed granting probate of the last Will dated 17.03.2006 and Codicil dated 07.02.2009.

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Index :Yes/No

Petitioner's witness:

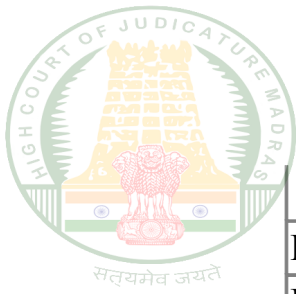
P.W.1 – Mr.S.Savarimalai

P.W.2 – Mr.U.Raman

P.W.3 – Mr.C.Murugan

Documents exhibited by the petitioners:

Exhibits	Documents
Ex.P1	Original Will dated 17.03.2006 executed by Mr.V.Sivagnanam.
Ex.P2	Original Codicil dated 07.02.2009 executed by



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	Mr.V.Sivagnanam.
Ex.P3	Computer generated death certificate of Mr.V.Sivagnanam.
Ex.P4	Photocopy of the legal heir certificate of Mr.V.Sivagnanam.(Compared with the original)
Ex.P5	Photocopy of the allotment order given by slum clearance board to Mr.V.Sivagnanam.(Compared with the original)
Ex.P6	Photocopy of Aadhar Card of P.W.1.(Compared with the original)
Ex.P7	Affidavit of assets showing the net value of the estate as Rs.30,00,000/-
Ex.P8	Affidavit of P.W.2.
Ex.P9	Affidavit of P.W.2 with regard to the execution of Codicil.
Ex.P10	Photocopy of Aadhaar Card of P.W.2 (Compared with the original)
Ex.P11	Affidavit of P.W.3.
Ex.P12	Photocopy of Aadhaar card of P.W.3(Compared with the original)

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