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O.P.No.349 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **25.03.2025**

CORAM

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

O.P.No.349 of 2022

P.Karthikesan

...Petitioner

VS.

1.K.Anandhi
2.V.Swaminathan
3.V.Singaravelu
4.Mrs.Geetha Natarajan

...Respondents

PRAYER: Original Petition filed under Section 222 and 276 of Indian Succession Act (Act XXXIX of 1925) read with Order XXV Rule 4 of O.S.Rules, prays that this Hon'ble Court may allow him to prove the WILL in common form, and that probate thereof to have effect limited to the State of TamilNadu may be granted to the petitioner.

For Petitioner : Mr.R.Ganesh Kanna

For Respondents : No appearance

**ORDER**

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This Original Petition has been filed for issuance of Probate for the Last Will and testament dated 12.05.1995 executed by Late Mrs.G.Thilagavathy, who died on 17.04.2013. The petitioner has been appointed as executor under the Will.

2. The petitioner states the he is the husband of the 1st respondent. He submits that the testatrix got married to one Mr.Govinda Raju who predeceased her on 02.03.1993 and the couple did not have any issues out of the wedlock. The respondents 1 to 4 are the nieces and nephews of the testatrix through her husband's brother. The 1st respondent is also the adopted daughter of the testatrix as stated by the testatrix herself in the Will executed by her. The petitioner further submits that before her death the testatrix had executed a Will on 12.05.1995 in which she had bequeathed the both the movable properties and the immovable property which is more fully described in Will absolutely in favour of the 1st respondent. The petitioner contends that his wife who is the 1st respondent to this original petition is the sole absolute beneficiary named in the Will and the testatrix had appointed



him as the only executor of the Will.

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3. The petitioner has been examined as PW1 and he had produced 6 Documents which to support his deposition which are listed as Ex.P1 to Ex.P6 at the foot of the order. The Original Will dated 12.05.1995 has been marked as Ex.P1. The computer generated death certificate of the testatrix has been marked as Ex.P4. The photocopies of the death certificate and the legal heriship certificate of Mr.A.K.Govindaraju has been marked as Ex.P2 and Ex.P3 respectively. The perusal of Ex.P1 clearly substantiates the claims made in the petition that the petitioner has been appointed as the executor and the 1st respondent is the sole beneficiary named in the said Will executed by the testatrix.

4. The petitioner has examined one Mr.B.Suresh, who is the 3rd party witness as PW2 *vide* order dated 22.10.2024 ordered in the Application No.5129 of 2024. He has spoken about the execution of the Will by the testatrix and he has identified the signatures of the testatrix and one Mr.V.Chandru, who is the 1st attesting witness to the will. He has also



marked his affidavit as Ex.P7 and the photocopy of his aadhar card as Ex.P8.

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5. The service upon the respondents 1 to 4 has been completed and inspite 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 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 12.05.1995.

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Index :Yes/No

Petitioner's witness:

P.W.1 – Mr.P.Karthikesan

P.W.2 – Mr.B.Suresh



Documents exhibited by the petitioners:

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<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Original Will dated 12.05.1995 executed by Mrs.G.Thilagavathy.
Ex.P2	Photocopy of the death certificate of Mr.A.K.Govindaraj (Compared with the original)
Ex.P3	Photocopy of the Legal Heir Certificate of Mr.A.K.Govindaraj (Compared with the original)
Ex.P4	Computer generated death certificate of Mrs.Thilagavathy.
Ex.P5	Certificate under Section 65 B of the Indian Evidence Act, 1872.
Ex.P6	Affidavit of assets showing the net value of the estate as Rs.50,00,000/-
Ex.P7	Affidavit.
Ex.P8	Photocopy of Aadhar Card.

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K.KUMARESH BABU, J.



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