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O.P.No.791 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **24.04.2025**

CORAM

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

O.P.No.791 of 2024

S.Mohanavelu

...Petitioner

VS.

M.Krishnakanth

...Respondent

PRAYER: Original Petition filed for Probate of a Will under Section 222 and 276 of Indian Succession Act read with Order XXV Rule 4 of Madras High Court Original Side Rules, prays that he may be allowed to prove the Will of Mrs.Parvathyammal wife of Nagarajan in Common Form, and that Probate thereof, to have effect throughout State of Tamil Nadu, may be granted to him.

For Petitioner : Mr.S.Mahaveer
For Respondent : No appearance

ORDER

This Original Petition has been filed for issuance of Probate for the Last Will and testament dated 22.10.1998 executed by Late.Mrs.Parvathyammal, who died on 14.12.2007. The petitioner has been appointed as executor under the Will.



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2. The petitioner is the nephew of the testatrix through her brother Late.S.Subramanian and the respondent is the son of the petitioner and grandson of Late.S.Subramanian. The testatrix was married to one Late.Mr.Nagarajan who died on 18.08.1993. The petitioner submits that the testatrix executed a Will dated 22.10.1998, where she had bequeathed 50% undivided share in the property mentioned in the schedule in favour of the respondent and the petitioner and his wife have the life interest of the property under the Will and the remaining 50% undivided share was bequeathed in favour of one Late.Mr.Ravidran who is the younger brother of the petitioner and also the younger son of Late.S.Subramanian. As per the Will if Late.Mr.Ravidran died as a bachelor then his 50% undivided share would devolve upon the petitioner and his family. The petitioner submits that his wife Late.Mrs.Dolly died on 17.05.2016 and the one of the beneficiary named in the will Late.Mr.Ravidran died as a bachelor on 13.02.2024. Therefore the petitioner and the respondent are the only beneficiaries of the property mentioned in the schedule as per the Will executed by the testatrix. The service of notice upon the respondent was completed but inspite of the notice being served the respondent chose to keep himself away from the proceedings.



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3. The petitioner has been examined as PW1. He has produced the original will dated 22.10.1998 as Ex.P2. The computer generated death certificate of Late.Mr.Parvathiammal, Late.Mrs.Dolly and Late.Mr.Ravidran have been marked as Ex.P11, Ex.P3 and Ex.P4. A consent affidavit of the respondent has been marked as Ex.P13. The copy of the legal notices date 22.07.2024 sent to the 1st and the 2nd witnesses along with the returned cover and postal acknowledgement card has been marked as Ex.P9 and Ex.P10. A consent affidavit of the respondent has been marked as Ex.P13. The perusal of Ex.P2 clearly shows that the petitioner is appointed as the executor and both the petitioner and the respondent are the beneficiaries named under the Will.

4. Mr.M.Sundaram, who is the third party attesting witness has been examined as PW2. He has spoken about the execution of the Will by the testator and its attestation by the 1st and 2nd attesting witnesses and he has identified the signatures of the testatrix and both the attesting witnesses. He has marked his affidavit as Ex.P14.

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 22.10.1998.

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Index :Yes/No

Petitioner's witness:

P.W.1 – Mr.S.Mohanavelu

P.W.2 – Mr.M.Sundaram

Documents exhibited by the petitioner:

Exhibits	Documents
Ex.P1	Photocopy of the death certificate of M.A.Nagarajan who died on 18.08.1993.
Ex.P2	Original Will of Mrs.Parvathyammal dated 22.10.1998.
Ex.P3	Computer generated death certificate of M.Dolly who died on 17.05.2016.
Ex.P4	Computer generated death certificate of Mr.Ravindran who died on 13.02.2024.
Ex.P5	Original property tax demand card stands in the name of Mrs.Parvathy Nagarajan.
Ex.P6	Original CMWSSB card stands in the name of Mrs.Parvathy Nagarajan.



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Ex.P7	Original Electricity Service connection card stands in the name of Mrs.Parvathy Nagarajan.
Ex.P8	Certified copy of the last will of Mrs.Parvathyammal dated 22.10.1998 (original Will marked as Ex.P2)
Ex.P9	Office copy of the legal notice dated 22.07.2024 to the first attesting witness along with returned cover and postal acknowledgement card.
Ex.P10	Office copy of the legal notice dated 22.07.2024 to the second attesting witness along with returned cover and postal acknowledgement card.
Ex.P11	Computer generated death certificate of Mrs.Parvathi Nagarajan who died on 14.12.2007.
Ex.P12	Affidavit of assets.
Ex.P13	Consent affidavit of M.Krishnakanth.
	Certificate under Section 65 B of the Indian Evidence Act, 1872.
Ex.P14	Affidavit.

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K.KUMARESH BABU, J.

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