



O.P.No.85 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **21.08.2025**

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

**O.P.No.85 of 2025**

Mr.L.Ganapathy

...Petitioner

vs.

1.G.Deepak

2.Master Sanjay (Minor)

Rep.by its Guardian and Father Mr.Venkatramani

Residing at No.6/16,

Thirugnanasambandar Street,

Gandhi Nagar,

Ekatuthangal Industries Estate,

Guindy, Chennai – 600 032.

...Respondents

**PRAYER:** Original Petition filed under Sections 222 and 276 of the Indian Succession Act 1925 read with Order XXV Rule 4 of O.S. Rules, praying that the petitioner may be allowed to prove the WILL in common form and that probate thereof, to have effect limited to the State of Tamil Nadu, may be granted to the petitioner.

For Petitioner : M/s.A.Arokia Sathesh

For Respondents : No appearance



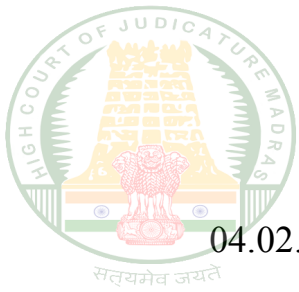
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## **ORDER**

**WEB COPY** This Original Petition has been filed for issuance of Probate for the Last Will and testament dated 24.07.2024 executed by Late.Mr.S.Sundaram, who died on 05.08.2024. The petitioner has been appointed as executor under the Will.

2. The petitioner submits that the testator had got married to one Mrs.S.Alamelu who predeceased the testator on 13.07.2019 and the couple did not have any issues out of their said marriage. The petitioner further submits that one Mr.Venkatramani and himself are the nephews of the testator through his predeceased sister Late.Mrs.Avayambal. The petitioner also submits that his brother and himself have been taking care of the testator, after the death of Late.Mrs.S.Alamelu who is the wife of the testator. The petitioner asserts that testator after the death of his wife, had adopted two grandchildren of his sister Late.Mrs.Avayambal who are impleaded as the respondents 1 and 2 to this petition.

3. The testator had adopted a minor child Master.V.Sanjay, the 2<sup>nd</sup> respondent represented by his father herein, who was aged about 12 years during the time of his adoption. He was the son of Mr.L.Venkatramani the one of the aforesaid nephew of the testator and the above said adoption was effected vide an Adoption Deed dated



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04.02.2022 registered as Document No.43 of 2022, executed between the testator and the parents of the aforesaid minor child Master.V.Sanjay.

Subsequently testator had also adopted one Mr.G.Deepak, the 1<sup>st</sup> respondent herein, who was the son of the petitioner, vide an Adoption Deed dated 17.02.2022 registered as Document No.60 of 2022, executed between the testator and the parents of the aforesaid Mr.G.Deepak. The petitioner submits that the testator prior to his demise had executed a Will in which he had named the both the respondents 1 and 2 as the beneficiaries to his will and had absolutely bequeathed the immovable property described therein in favour of them. The testator had appointed the petitioner as the executor to the afore said Will dated 24.07.2024.

4. The petitioner has been examined as PW1. He has produced 12 documents to support his deposition which are listed as Ex.P1 to Ex.P12 at the foot of the order. The original Will executed by the testator has been marked as Ex.P1. The computer generated death certificates of the testator and his wife Late.Mrs.S.Alamelu have been marked as Ex.P2 and Ex.P3 respectively. The photocopy of the Adoption Deed of the 1<sup>st</sup> respondent dated 17.02.2022 has been marked as Ex.P7. The photocopy of the Adoption Deed of the 2<sup>nd</sup> respondent dated 04.02.2022 has been marked as Ex.P6. The perusal of the Ex.P1, clearly substantiates the



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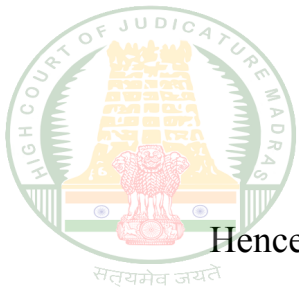
claims made in the petition, that both the respondents 1 and 2 were the sole beneficiaries named in the Will dated 24.07.2024, for which the petitioner was appointed as the executor. The general paper publications have been effected which are marked as Ex.P10 and Ex.P11 and no objections were received for the same.

5. Mr.J.Suresh, who was the first attesting witness to the said Will dated 24.07.2024, has been examined as PW2. The aforesaid attesting witness had spoken about the execution of the Will by the testator and its attestation by him along with the other attesting witness, Ms.Luxy Vijayan and has marked his affidavit as Ex.P13.

6. The service of notices upon the respondents 1 and 2 has been completed. In spite of the service being completed the respondents neither appeared in person nor through the counsels, the respondents 1 and 2 chose to keep themselves away from the proceedings

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.



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Hence, the Original Petition is allowed granting probate of the last Will and testament dated 24.07.2024.

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Index :Yes/No

**Petitioner's witness:**

P.W.1 - Mr.L.Ganapathy

P.W.2 – Mr.J.Suresh

P.W.3 – Ms.Luxy Vijayan

**Documents exhibited by the petitioners:**

| <i>Exhibits</i> | <i>Documents</i>                                                                                                                                                 |
|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ex.P1           | Original Will executed by Late Mr.S.Sundaram dated 24.07.2024.                                                                                                   |
| Ex.P2           | Computer generated copy of the death certificate of Mr.S.Sundaram who died on 05.08.2024.                                                                        |
| Ex.P3           | Computer generated copy of the death certificate of Mrs.Alamelu who died on 13.07.2019.                                                                          |
| Ex.P4           | Photocopy of the Aadhar Card of the petitioner.(Original is produced, compared and returned to the petitioner's counsel)                                         |
| Ex.P5           | Computer generated copy of the guideline value of the property.                                                                                                  |
| Ex.P6           | Photocopy of the adoption deed dated 04.02.2022 adopted the 2 <sup>nd</sup> respondent.(Original is produced, compared and returned to the petitioner's counsel) |
| Ex.P7           | Photocopy of the adoption deed dated 17.02.2022 adopted the 1 <sup>st</sup> respondent.(Original is produced, compared and returned to the petitioner's counsel) |
| Ex.P8           | Photocopy of the sale deed in favour of Sundaram dated 29.02.1984.                                                                                               |
| Ex.P9           | Affidavit of assets showing the net value Rs.74,93,440/-                                                                                                         |
| Ex.P10          | One issue of paper publication effected in Tamil Daily in                                                                                                        |



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| <b><i>Exhibits</i></b> | <b><i>Documents</i></b>                                                                        |
|------------------------|------------------------------------------------------------------------------------------------|
|                        | “Makkal Kural” dated 21.06.2025.                                                               |
| Ex.P11                 | One issue of paper publication effected in English Daily in “Trinity Mirror” dated 30.06.2025. |
| Ex.P12                 | Certificate under Section 63 of BSA Act, 2023.                                                 |
| Ex.P13                 | Affidavit of P.W.2.                                                                            |
| Ex.P14                 | Photocopy of Aadhaar card of P.W.2.                                                            |
| Ex.P15                 | Affidavit of P.W.3.                                                                            |
| Ex.P16                 | Photocopy of Aadhaar card of P.W.3.                                                            |

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**K.KUMARESH BABU,J.**

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