



WEB COPY

OP No. 227 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 23-06-2026**

CORAM

**THE HON'BLE DR.JUSTICE A.D.MARIA CLETE**

**OP No. 227 of 2025**

M.S.Tholkappian, S/o.Sampath,  
No.82/155-1, BIG Street,  
Tirplicane, Chennai, PIN - 600 005.

..Petitioner(s)

Vs

1. M.S.Elangovan, S/o.M.Sundaresan,  
No.15, Theradi Street,  
Near Sangam School, Menampedu,  
Ambattur, Chennai - 600 053.
2. M.S.Gangaikondan, S/o.M.Sundaresan,  
No.6/7C, Thiruvengkatachari Street,  
Ambattur, Tiruvallur, Tamil Nadu,  
PIN - 600 053
3. M.S.Velpari, S/o.M.Sundaresan,  
211, 3rd C Cross,  
3rd Block, HRBR Layout,  
Kalyan Nagar, Bangalore, PIN - 560 043.
4. M.S.Arivudainambi, S/o.M.Sampath,  
17, Sai Ram Street,  
Paneer Nagar,Mogappair,  
Tamil Nadu, Chennai - 600 037.
5. M.S.Elanchetchenni, S/o.M.Sampath,  
82/155-1, Big Street, Triplicane,  
Tamil Nadu, Chennai - 600 005.

..Respondent(s)



Prayer : Original Petition filed under sections 222 [2] and 276 of the Indian Succession Act to allow the petitioners to prove the Will of the deceased in common form and that probate thereof, to have effect to the throughout whole State of Tamil Nadu may be granted to him Gross Amount Rs.1,00,00,000/- and Net Amount Rs.98,80,000/- Suc.duty of Rs.25,000/- paid on 06.06.2025 by e-C/F D.No.19880/2025.

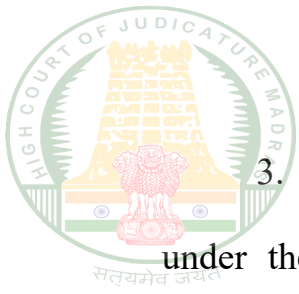
For Petitioner(s): Mr.R.K.Ramaiah

For Respondent(s): Mr.Govi Ganesan

### **ORDER**

This Original Petition has been filed under Sections 222 and 276 of the Indian Succession Act, 1925, read with Order XXV of the Original Side Rules, seeking grant of Probate in respect of the last Will and testament dated 01.11.2005 said to have been executed by late Mrs. B. Vasantha.

2. The case of the petitioner is that Mrs. B. Vasantha, wife of Mr. S. Sridharan, died on 05.03.2006 at her residence. She was ordinarily residing at Old No.155, New No.82, Big Street, Triplicane, Chennai – 600 005, within the jurisdiction of this Court.

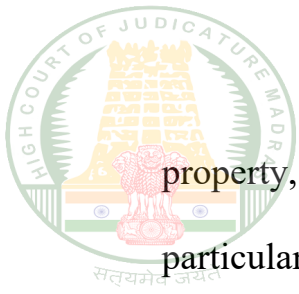


3. The petitioner states that the testatrix was the owner of the property under the sale deed dated 12.11.1975 executed in favour of the testatrix.

According to the petitioner, the testatrix executed her last Will and testament on 01.11.2005 at Chennai in the presence of attesting witnesses. Under the said Will, the testatrix gave the property to the petitioner and the respondents in the following shares. Respondents 1 to 4 and the petitioner were each given 1/7 undivided share in the land. The 5th respondent was given 2/7 undivided share in the land.

4. The petitioner states that he is the executor according to the tenor of the Will and further states that, after the demise of the testatrix, the petitioner and the respondents have been enjoying the property without any let or hindrance and that there is no dispute regarding the Will. It is further stated that the testatrix and her husband had no issues. Her father and mother had predeceased her, and her husband, Mr. S. Sridharan, subsequently died on 20.10.2010. According to the petitioner, there are no other surviving legal heirs or kith and kin of the deceased.

5. The petitioner has also explained the delay in filing the present petition. According to him, the property was earlier situated in mufasil area and outside Chennai City limits. The parties were therefore advised that probate of the Will was not required. However, when the petitioner decided to develop the



property, the authorities insisted upon production of Probate of the Will, particularly since the property now comes within the Greater Chennai Corporation limits. Probate is also stated to be required for transfer of revenue records and property records standing in the name of the deceased in favour of the beneficiaries. In these circumstances, the petitioner has filed the present petition and states that there is no undue delay.

6. The gross value of the estate is stated as Rs.1,00,00,000/- and the net value of the estate is stated as Rs.98,80,000/-.

7. The respondents have filed a memo dated 04.11.2025 stating that they have no objection for allowing the Original Petition.

8. The petitioner examined himself as P.W.1 before the learned Master and marked Ex.P1 , Original Will dated 01.11.2005 executed by Mrs. B. Vasantha; Ex.P2, Photocopy of sale deed dated 12.11.1975 executed in favour of Mrs. B.Vasantha, compared with the original; Ex.P3,Original death certificate of Mrs. B. Vasantha; Ex.P4,Original legal heirship certificate of Mrs. B. Vasantha; Ex.P5, Computer generated death certificate of Mr. S. Sridharan; Ex.P6 , Affidavit of assets showing the net value of the estate as Rs.98,80,000/-; Ex.P7 Certificate filed under Section 63(4)(c) of the Bharatiya Sakshya Adhiniyam.

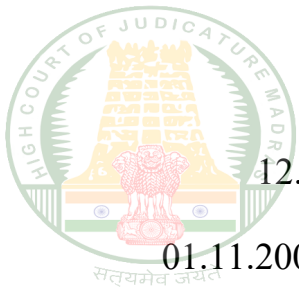


WEB COPY

9. The attesting witness Mrs. S. Poongothai was examined as P.W.2. She stated that the testatrix was her maternal aunt and that she was the second attesting witness to Ex.P1 Will. She further stated that Mrs. B. Vasantha was in a sound state of mind and in good health at the time of execution of the Will. She also stated that the testatrix signed the Will in her presence and in the presence of Mr. M.S. Elangovan, the first attesting witness, and Mr. V. Ethirajan, the third attesting witness. She further deposed that, at the request of the testatrix, she signed the Will as the second attesting witness.

10. The petitioner has described himself in the affidavit of assets as the executor and nephew of the deceased testatrix, Mrs. B. Vasantha. Respondents 1 to 3 are beneficiaries under the will

11. The evidence of P.W.1 and P.W.2, together with Exs.P1 to P8, proves the execution and attestation of the Will dated 01.11.2005. There is no caveat. There is also no objection from the respondents, who are the beneficiaries under the Will. The delay in approaching the Court has also been explained.



12. In view of the above, this Court is satisfied that the Will dated 01.11.2005 executed by late Mrs. B. Vasantha has been duly proved in the manner known to law and that the petitioner, being the executor according to the tenor of the Will, is entitled to grant of Probate.

12. Accordingly, this Original Petition is allowed. Probate of the last Will and testament dated 01.11.2005 executed by late Mrs. B. Vasantha shall be granted in favour of the petitioner, Mr. M.S. Tholkappian, to have effect throughout the State of Tamil Nadu.

**23-06-2026**

Index: Yes/No  
Speaking/Non-speaking order  
Neutral Citation: Yes/No

vrc

Petitioner Side Witnesses :

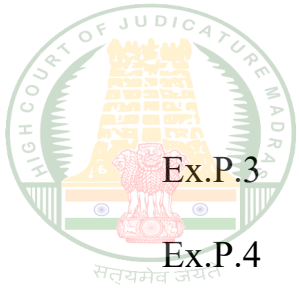
P.W.1 Mr.M.S.Tholkappian

P.W.2 : Mrs.Poongothai

Petitioner Side Documents :

Ex.P.1 : Original Will of Late B.Vasantha dated 01.11.2025

Ex.P.2 : Copy of the sale Deed dated 12.11.1975 executed in favour of late B.Vasantha



Ex.P.3 : Original death certificate of late B.Vasantha

Ex.P.4 : Original legal heirship certificate of late B.Vasantha

Ex.P.5 : Computer Generated death certificate of S.Sridharan

Ex.P.6 : Affidavit of assets

Ex.P.7 : Certificate filed by the petitioner under section 63 [4] [C] of BSA

Ex.P.8 : Copy of Aadhar Card of P.W.2

Respondents Side Witnesses and Documents Nil

**23-06-2026**



WEB COPY

OP No. 227 of 2



**DR.A.D.MARIA CLETE, J.**

VRC

**OP No. 227 of 2025**

**23-06-2026**