

**Mr.M. Munegowda, vs Nil**

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**Court : Karnataka**

**Decided On : Mar-28-2024**

**Judge : M.G.S. Kamal**

**Appeal No. : PROB.CP/19/2023**

**Appellant : Mr.M. Munegowda,**

**Respondent : NIL**

**Judgement :**

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF MARCH, 2024 BEFORE THE HON'BLE MR JUSTICE M.G.S. KAMAL PROBATE CIVIL PETITION NO. 19 OF 2023 BETWEEN: MR.M. MUNEGOWDA, SON OF P.MUNSIWAMY GOWDA, AGED ABOUT 61 YEARS, RESIDING AT NO.33, SRINIVASA NILAYA 24TH MAIN, BRIGADE, MELLENIUM ROAD, ABOVE APOLLO PHARMACY, PUTTENAHALLI, 7TH PHASE, J.P. NAGAR, BANGALORE-560 078. PETITIONER (BY SRI. K S PONNAPPA.,ADVOCATE) AND: NIL Digitally signed by SUMA B N RESPONDENT Location: High Court of Karnataka THIS PROB C.P. IS FILED UNDER PART IX SECTIONS (270, 278 AND 300) OF THE

INDIAN SUCCESSION ACT, 1925, PRAYING TO a) ALLOW THE PETITIONER TO PROVE THE LAST WILL AND TESTAMENT DATED:08.04.2011 OF LATE K.V. ANNAPOORNA, IN COMMON FORM; b) GRANT PROBATE IN FAVOUR OF THE PETITIONER TO THE PROPERTY AND CREDITS OF LATE K.V. ANNAPOORNA WITH THE WILL DATED:08.04.2011 ANNEXED HERE, TO HAVE EFFECT THROUGHOUT THE TERRITORY OF INDIA. THIS PETITION, COMING ON FOR HEARING, THIS DAY, THE COURT MADE THE FOLLOWING: -2-

## **ORDER**

This petition is under Sections 222, 276 and Chapter IV of the Indian Succession Act, 1925 r/w Rule 5 of the Rules Governing Probate and Administration Matters, 1964 seeking grant of probate in respect of the last Will and Testament dated 08.04.2011 of late Smt.K.V.Annapoorna (Testatrix) in respect of her property and credits to have effect throughout India.

2. Petitioner -M.Munegowda is before this Court as

the Executor appointed by the Testatrix- Smt.K.V.Annapoorna under her Will dated 08.04.2011. That the Testatrix was married to one Sri.K.Varadarajulu Chetty. They had four sons and four daughters namely, Sri. K.V. Nandagopal, Sri.K.V.Vijayakumar, Sri.K.V.Ashok Kumar and Sri.K.V.Ramesh Kumar and Smt. K.V.Lakshmikantha, Smt. K.V.Nirmala, Smt. K.V.Anuradha and K.V.Sheela.

3. The husband of the Testatrix passed away on 13.04.1989 leaving behind the testatrix and their aforesaid -3- children. The said K.V. Varadarajulu Chetty had bequeathed all his properties in favour of his wife i.e., the Testatrix as per his last Will dated 27.04.1979.

4. Testatrix passed away on 05.11.2021 within the jurisdiction of this Court. Death Certificate of the Testatrix

is enclosed to the petition. That the testatrix was an Indian National professing Hindu Religion having fixed place of abode at No.326, Lakshmi Sadan, 10th 'A'

Main, Jayanagar, III Block, Bangalore South, Bangalore-560011.

5. The properties subject matter of the Will

belonging to the Testatrix which are detailed in Schedule 'A' to the petition include movable and immovable properties and total value of which is shown as Rs.4,25,00,000/- (Rupees Four Crore and Twenty Five Lakh only). The details of the bequeath made by the Testatrix are provided at paragraphs 2.7 and 2.8 of the petition. That original Will dated 08.04.2011 is produced along with the petition. -4-

6. That the testatrix executed the said Will in the presence of two witnesses namely, N.Vijaykumar and

P.Vishwanatha Gupta who have filed their affidavits confirming their signatures on the Will and also confirming the execution of Will by the testatrix and she affixing her signature in their presence on the Will.

7. Thus, the petition is filed seeking grant of probate.

8. This Court by order dated 11.09.2023 had allowed

application in IA No.1/2023 filed under Section 151 of CPC dispensing notice to the Deputy Commissioner regarding valuation of the estate of late Smt.K.V.Annapoorna, as the petitioner/Executor was ready and willing to pay the maximum Court fee prescribed under the Act.

9. By order dated 11.09.2023 this Court had

permitted the petitioner to take out citation by way of publication in English newspaper namely, "Indian Express" and "Loksatta" in Marathi language of Mumbai edition to be taken on or before 26.09.2023 by showing the next date of hearing as 10.10.2023. -5-

10. By memo dated 05.10.2023 along with copies of citations published in newspapers in "Indian Express" and "Loksatta (Marathi)" of Mumbai edition dated 21.09.2023 as directed by this Court are produced.

11. That on 01.03.2024 the petitioner and the

attesting witnesses were directed to appear before the Central Project Coordinator (CPC) to record the evidence. Accordingly, they have been examined as PW.1 to PW.3. Two documents namely, (1) Death certificate of K.V.Annapoorna, (2) The Will dated 08.04.2011 and the signatures of the said witnesses have been marked as Ex.P1 and Ex.P2 and Ex.P2(a) to (c) respectively.

12. Heard. Perused the records.

13. Perusal of affidavit evidence and the exhibits reveal that Will dated 08.04.2011 has been executed by Smt.K.V.Annapoorna, who died on 05.11.2021. The witnesses were present when the Will was executed by the testatrix who thereafter have affixed their signatures to the said Will. -6-

14. In view of the aforesaid factual aspect of the

matter and as there is no objection filed by anyone and no one has appeared and opposed the grant of probate of the last Will of Smt.K.V.Annapoorna, the petitioner being the Executor of the last Will by late Smt.K.V.Annapoorna, is entitled for grant of probate of the last Will dated 08.04.2011 executed by Smt. K.V.Annapoorna, as such this petition deserves to be allowed.

15. Accordingly, the following;

## **ORDER**

(i) The petition is allowed.

(ii) The Registry is directed to issue probate in respect of the last Will dated 08.04.2011 of late Smt. K.V.Annapoorna, to have effect throughout India on payment of requisite Court fee to the petitioner.

(iii) The petitioner shall submit inventories

before this Court within six months and final -7- accounts shall be submitted within twelve months from the date of grant of probate. Sd/- JUDGE RU, List No.: 1 SI

No.: 24

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