

(2018) 01 KAR CK 0015
In the Karnataka High Court
Case No : 11 of 2016

K. VENKATARAMAN & ORS.

APPELLANT

Vs

NIL

RESPONDENT

Date of Decision : 12-01-2018

Acts Referred:

[Code of Civil Procedure, 1908](#), [Section 89](#) - Settlement of disputes outside the Court
[Indian Penal Code, 1860](#), [Section 34](#), [Section 498A](#)

Citation : (2018) 01 KAR CK 0015

Hon'ble Judges : A.S. Bopanna

Bench : Single Bench

Advocate : SANJANA RAO

Final Decision : Allowed

Judgement

1. The petitioners are before this Court in this petition seeking that they be permitted to prove the Will dated 13.07.2016 executed by Late Satish

Arikkath and grant the Probate Certificate in favour of petitioner No.1 to have effect throughout India.

2. The petitioner No.1 is the executor appointed under the Will dated 13.07.2016. The petitioners No.2 to 5 being the widow, daughter, sister

and ex-wife of the testator are the beneficiaries under the Will. It is in that light, they are before this Court seeking that they be permitted to prove

the Will and probate be granted in their favour.

3. Publication of filing of this petition was ordered by this Court on 11.08.2017. Accordingly, the publication has been made and this Court,

through the order dated 25.10.2017 has taken the same on record and held the same to be sufficient. Despite publication of filing of this petition by

the petitioners seeking grant of probate, no person has approached this Court opposing this petition.

4. I have heard the learned counsel for the petitioners and perused the petition papers.

5. A copy of the Will dated 13.07.2016 is at Annexure-A to the petition. The original of the Will has been received by the Registry and is kept in

safe custody as per the endorsement dated 03.02.2017. The certificate of death relating to Satish Arikath, the testator is at Annexure-B to the

petition. The same would indicate that he has expired on 23.08.2016. In that view, the Will has come into effect and it is in that view, the

petitioners are before this Court.

6. A perusal of the Will would disclose that one Sri J. Vadhiraaj and the petitioner No.1 herein are the attesting witnesses and the petitioner No.1

has also been appointed as the executor to bring the Will into effect. The affidavit dated 13.12.2016 sworn to by Sri J. Vadhiraaj available at

Annexure-D to the petition would disclose that he has stated therein that he was present at the time when Late Satish Arikath executed the Will

and at the same time, Sri K. Venkataraman was also present. It is further stated that after the testator had affixed his signature, both the witnesses

have signed the said document as witnesses. Sri K. Venkataraman namely, the first petitioner has also sworn to an affidavit dated 13.12.2016 as at

Annexure-E wherein he has stated about Sri J. Vadhiraaj and himself being present at the same time when Sri Satish Arikath executed the Will and

they having signed as the witnesses. The statement as made by the attesting witnesses through the affidavits has not been controverted before this

Court since, as already noted, no person has approached this Court opposing grant of probate nor the execution of the Will as made by Late

Satish Arikath.

7. The details of the property left behind and the valuation thereto has also been filed by the petitioners. In the said circumstance, since the attesting

witnesses have sworn to the affidavits and the Will has come into effect, the prayer as made in the petition is liable to be granted.

8. Accordingly, it is held that the Will dated 13.07.2016 executed by Late Satish Arikath is proved. Hence, a Certificate of Probate be granted in

favour of the petitioner No.1 to bring into effect the Will dated 13.07.2016. The

petitioners to execute the surety bond and also pay the necessary

Court fee whereupon the Certificate of Probate be drawn up by the registry. The list of inventories and the final accounts be filed by the petitioner

No.1 within a period of six months. The petition is accordingly allowed.