
(2012) 01 KAR CK 0019
In the Karnataka High Court
Case No : Probate Civil Petition No. 9 of 2011

Mr. Rukhein Davis and Sudhir Krishnaswamy	APPELLANT
Vs	
Nil	RESPONDENT

Date of Decision : 11-01-2012

Acts Referred:

Citation : (2012) 01 KAR CK 0019

Hon'ble Judges : B.V. Pinto, J

Bench : Single Bench

Advocate : Jayna Kothari, for the Appellant;

Final Decision : Allowed

Judgement

B.V. Pinto

1. The petitioners have preferred this petition seeking grant of probate of the Will dated 27.01.2011 of Mr. Davis John. The petitioners are the Executors appointed under the said Will. Mr. Rukhein Davis is the son of the deceased and Sudhir Krishnaswamy is the good friend of the deceased. Mr. Davis John died on 1.4.2011 at Kerala. The Death Certificate dated 8.4.2011 issued by Registrar of births and Deaths, Government of Kerala in proof of death of the deceased is produced at Annexure-A to the petition. The deceased was permanent resident of No. 223, 2nd Main, 6th Cross, Defence Colony, Bangalore-560038. The deceased has left his movable and immovable properties in Bangalore within the jurisdiction of this Court.

2. I have perused the Last Will and Testament of Mr. Davis John executed on 27.1.2011 which was in the sealed cover, opened in the Court and the said Will was executed in the presence of two witnesses whose names are S.S. Nadig, S/o S.N. Siva Rao, residing at No. 253, 6th Cross, Domlur Layout, Bangalore-560071 and Susan Abraham residing at No. 78, Nandidurga Road, - 103, Jayamahal Extension, Bangalore-560 046 and their respective signatures and addresses are found at the foot thereof. A copy of the said Will is produced along with the

petition. Registry is directed to reseal the Will and keep the same in safe custody.

3. Sri S.S. Nadig, one of the attesting witnesses to the Will dated 27.1.2011, has filed affidavit dated 6.9.2011 stating that the testator had affixed his signature in their presence and they affixed their respective signatures to the said will in the presence of the testator and in the presence of each other.

4. The Second Petitioner-Dr. Sudhir Krishnaswamy has also filed an affidavit dated 5.9.2011 wherein he has mentioned the assets and liabilities of the deceased Mr. Davis John to which the petition has been filed for granting the probate of the Will dated 27.1.2011.

5. The second petitioner further stated that the amount of the assets which are likely to come to their hands does not exceed in aggregate the sum of Rs. 1,58,72,698/- [Rupees One Crore Fifty Eight Lakhs Seventy two Thousand and six ninety eight only] and the net amount of the said assets after deducting all items which they are, by law, allowed to deduct is Rs. 1,58,72,698/- [Rupees One Crore Fifty Eight Lakhs Seventy two Thousand and six ninety eight only]. Further they state that they have not filed petition before any other Court for grant of Probate of the Will dated 27.1.2011 or for Letters of Administration with the said will annexed.

6. The petition was admitted on 16.11.2011 and citation was ordered in English Daily News Paper "THE HINDU" in its Bangalore Edition. Accordingly the petitioners have taken out the citation in English Daily News Paper "THE HINDU" on 25.11.2011 and the copy of the same is furnished along with memo dated 26.11.2011. Pursuant to the citation no objections have been received.

7. Heard the Learned Counsel for the Petitioners, perused the records and also perused the affidavit of assets furnished along with the petition. In my opinion there is no impediment to grant the probate in respect of the Will dated 27.1.2011. Accordingly, the petition is allowed. Registry is hereby directed to issue probate of the Will dated 27.1.2011 in favour of the petitioners herein subject to the condition that the petitioners shall file the true inventory of the assets within six months from the date of grant of probate and the true and full accounts of the estate within one year from the date of grant.