

IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE, NAMAKKAL

**Present:- Thiru. R. Gurumurthy, B.Sc.,B.L.,  
Principal District Judge,  
Namakkal.**

Wednesday, the 20<sup>th</sup> day of August 2025

**Probate O.P. No.129/2024**  
(CNR.No.TNNM01-001071-2024)

Santhi @ Pauline Louisa Santhi

... Petitioner

/vs/

1. Dr.Kanimozhi  
2. Bhuvanendhiran  
3. Prem Anand  
4. Elavarasan

.... Respondents

This petition came up for the final hearing on 04.08.2025 before me in the presence of Thiru. V.Srinivasan, Counsel appearing for the Petitioner; Respondents 1 to 4 having been called absent and were set exparte; No objectors have appeared after effecting General Notice and Paper Publication. Upon hearing both sides and on perusal of case records, this Court delivers the following:

### **ORDER**

This Petition has been filed by the Petitioner under Section 276 of Indian Succession Act, 1925 to **grant a Probate** certificate in respect of the estate of the **deceased Vasanthakumar**, with regard to the petition mentioned properties to enforce the last will of the deceased Vasanthakumar, dated **02.03.2020** in favour of the **Petitioner**.

#### **2. Brief facts of the Petition averments are as follows:-**

One D. Vasanthakumar, is the husband of the petitioner. The petition mentioned property which was allotted as per the orders of the SHU

Ref.No.R2/8289/85, dated 14.04.1988 by the Tamil Nadu Housing Board to the deceased D. Vasanthakumar and on 23.04.2010, the Tamil Nadu Housing Board represented by its Executive Engineer & Administrative Officer, Salem Housing Unit executed a sale deed in favour of the deceased D.Vasanthakumar as per the sale deed under doc. no.3967/2010, Sub Registrar, Tiruchengode and handed over possession to him for true and valid consideration.

2.1. The Respondents No.1 to 3 are the sons of Late. Vasanthakumar through his first wife Parimalam. On 05.11.1990, the said Parimalam died and after her death, the said Late. Vasanthakumar married the petitioner on 01.05.1991. Due to the wedlock, the 4<sup>th</sup> Respondent was born to them on 12.04.1992. At the time of second marriage, the respondents Nos.1 to 3 were minors and they were care and custody of the petitioner and her husband Late. Vasanthakumar. The respondents are maintained by this petitioner and her husband Late. Vasanthakumar and also imparted education to them. Now the respondents 1 to 4 are well settled and they are residing along with their respective families.

2.2. When the deceased D. Vasanthakumar was in a sound disposing state of mind without inducement and instigation of anybody and out of his own volition he executed an unregistered Will dated 02.03.2020 in favour of the petitioner in respect of the property described in the said unregistered Will. The petitioner submits that the property more fully mentioned in the said unregistered Will was a self acquired property of the testator deceased D. Vasanthakumar.

2.3. The above said unregistered Will dated 02.03.2020 was executed by the said deceased D. Vasanthakumar in the presence of the witnesses. The said deceased D. Vasanthakumar died on 30.09.2022. The said Will is the last Will of the deceased D. Vasanthakumar and the said Will is in force and acted upon.

2.4. The deceased D.Vasanthakumar had bequeathed the schedule mentioned property in favour of the petitioner. As per the above said unregistered Will, the petitioner has got every right to change the Patta, Chitta and Municipal Tax in her name in respect of her property. The Will executed by the said deceased D.Vasanthakumar may kindly be read as part and parcel of this petition.

2.5. The death extract of the deceased D.Vasanthakumar is produced herewith. As per the unregistered Will dated 02.03.2020, the testator has specifically stated that the petitioner is entitled to the schedule mentioned property absolutely. The attestors to the above said unregistered Will 02.03.2020 were present at the time of the execution of the unregistered Will by the testator.

2.6. No petition was filed previously in respect of the subject matter of the unregistered Will for the issuance of Probate before any other court as this court has alone got jurisdiction to entertain this petition. Hence this petition.

3. No objectors have appeared despite effecting general notice and paper publication. Despite sufficient service held upon the respondents Nos.1 to 4, they were called absent and set exparte.

4. The petitioner, Santhi @ Pauline Louisa Santhi was examined as PW.1 and the attestor to the Will viz., Hemalatha was examined as PW.2 and Ex.P.1 to

Ex.P.14 were marked.

5. **The Point for consideration:-**

Whether the petition mentioned Will; dated 02.03.2020 is to be probated?

6. **POINT:-**

Petitioner side heard. Records perused. The case of petitioner is that the respondents Nos. 1 to 3, viz., Dr. Kanimozhi, Bhuvanendhiran and Prem Anandh are the children born to the deceased Vasanthakumar through his first wife, Parimalam. The said Parimalam died on 05.11.1990 and **Ex.P.13** is her death certificate. After the demise of first wife, on 01.05.1991, the deceased Vasanthakumar got second marriage with the petitioner and **Exs.P.7, P.8 & P.12** are the Marriage invitation card, Marriage registration certificate and Marriage photo, respectively. The 4<sup>th</sup> respondent, Elavarasan is the son of Vasanthakumar through his second wife, petitioner herein. The petition mentioned property is a Tamil Nadu Housing Board plot with building allotted to the deceased under **Ex.P.2**, Sale deed, dated 23.04.2010. **Exs.P.10 and P.11** are the Encumbrance Certificate and guideline value of the petition mentioned property. The deceased Vasanthakumar during his life time had executed **Ex.P.1** - unregistered Will dated 02.03.2020 in favour of the petitioner in respect of the petition mentioned property. The said Vasanthakumar died on 30.09.2022. **Ex.P.3 & Ex.P.4** are the death and legal heirship certificate of deceased Vasanthakumar, respectively. **Exs.P.5 and P.6** are the Aadhaar card of the petitioner and his husband Vasanthakumar. **Ex.P.9** is the order issued by the office of the A.G., by incorporating the name of the petitioner, Shanthi in the both halves of pensioner,

Vasanthakumar. **Ex.P.14** is Aadhaar card of PW.2, Hemalatha.

7. The petitioner viz; Santhi @ Pauline louisa shanthi who was examined as PW.1 has reiterated the petition averments in her proof affidavit. The one of the attesor to the Ex.P.1 Will viz; Hemalatha was examined as PW.2.

8. The question to be decided in the probate proceedings is as to whether the Will for which probate has been sought for is the last Will of the testator and the testator was in sound state of mind at the time of execution of the said Will and that the execution and attestation of the said Will were duly proved U/S.63 of the Indian Succession Act and U/S.68 of the Indian Evidence Act. On perusal of the Will, Ex.P.1, it was attested by two witnesses viz; (1) Saroja (2) Hemalatha (PW.2).

9. In order to prove the genuineness, execution and attestation of the Will in Ex.P.1, the attesor viz; Hemalatha was examined as PW.2. As per Section 68 of the Indian Evidence Act, the execution of the Will has to be proved by examining any one of the attesor. The PW.2 who was the attesor to Ex.P.1 Will has clearly deposed in her evidence that the said Will was executed by the testator Vasanthakumar while he was in sound state of mind and she has seen the testator affixed his signature and thumb impression on the Will and identified the same of him and the testator had also seen the attestors have signed in the Will.

10. Thus, from the evidence of PW.2, it is clearly established that Ex.P.1 Will is genuine and the same was executed by the testator voluntarily and out of his own volition while he was in sound and disposing state of mind and therefore, it is

held that execution and attestation of the same was duly proved as required U/S.63 of the Indian Succession Act and U/S.68 of Indian Evidence Act.

11. Though the petitioner has sought for granting Probate of the Will executed by her husband Vasanthakumar, it is clear from the provision under Section 222 of the Indian Succession Act that the Probate shall be granted only to an executor appointed by the Will. The beneficiaries to the Will can only seek Letters of Administration with the will annexed. **In the Judgment of the Hon'ble Supreme Court of India in Meena Pradhan & others /vs/ Kamla Pradhan & another,** the beneficiaries to the Will was granted only the Letters of Administration with the Will annexed. Hence, this court is of the view that though the petitioner has sought for Probate of the Will executed by Vasanthakumar, she is entitled for the grant of Letters of Administration with the Will annexed.

12. For all the reasons stated above, this Court is inclined to grant Letters of Administration in favour of the Petitioner in respect of the Will annexed; dated 02.03.2020 having been executed by deceased Vasanthakumar instead of grant of probate as prayed for and thus, this point is answered accordingly

13. **The Petitioner has paid the ad-valorem court fee of Rs.25,000/- vide challan in B.R.No.12/2024-25; dated 21.06.2024 towards issuance of Probate/Letters of Administration.**

14. In the result, this petition is allowed by granting Letters of Administration with the Will annexed; dated 02.03.2020 executed by Late

Vasanthakumar in respect of the petition mentioned property in favour of the Petitioner. **It is ordered to preserve and retain the original Will in the custody of the Court.**

Dictated to the Steno typist, typed by him on computer, corrected and pronounced by me in the open court, on the 20<sup>th</sup> day of August 2025.

Principal District Judge,  
Namakkal.

**Appendix:-**

**List of Witnesses on the side of the retitioner :-**

PW.1 - Santhi @ Pauline Louisa Santhi (Petitioner)

PW.2 - Hemalatha (Attestor)

**List of Witnesses on the side of the respondents:-Nil**

**List of Exhibits on the side of the petitioner :-**

|        |            |  |
|--------|------------|--|
| Ex.P.1 | 02.03.2020 | Unregistered WILL executed by Vasanthakumar in favour of the petitioner (Original)   |
| Ex.P.2 | 23.04.2010 | Sale deed executed by the Executive Engineer & Administrative officer, Tamil Nadu Housing board, Salem housing unit in favour of in favour of D. Vasanthakumar (Online certified copy) |
| Ex.P.3 | 12.10.2022 | Death certificate of D.Vasanthakumar (DOD.30.09.2022) (Online copy)  |
| Ex.P.4 | 23.02.2023 | Legal Heirship certificate of the deceased Vasanthakumar (Online copy)   |
| Ex.P.5 | -          | Aadhaar card of the petitioner (photostat copy– compared with original)  |
| Ex.P.6 | -          | Aadhaar card of deceased Vasanthakumar (photostat copy – compared with original)   |
| Ex.P.7 | 01.05.1991 | Marriage invitation card of the petitioner and the deceased Vasanthakumar (Original)   |

|         |            |   |
|---------|------------|---|
| Ex.P.8  | 11.02.2001 | Extract from the Register of Marriages (true copy)  |
| Ex.P.9  | 14.10.2020 | Letter of A.G. authorizing incorporation of the petitioner in the Pension proposal of the deceased Vasanthakumar (original) |
| Ex.P.10 | 06.03.2024 | Encumbrance certificate in respect of the petition mentioned property (online copy)   |
| Ex.P.11 | 19.12.2023 | Guideline value of the property (online copy)   |
| Ex.P.12 | -          | Marriage photos of the petitioner and deceased Vasanthakumar (2 nos) (Original)   |
| Ex.P.13 | 30.11.2018 | Death certificate of Parimalam (original)   |
| Ex.P.14 | -          | Aadhaar card of Hemalatha (PW.2)  |

**List of documents on the Respondents side:- NIL**

Principal District Judge,  
Namakkal.