

IN THE COURT OF PRINCIPAL DISTRICT JUDGE AT TIRUVALLUR

Present: Dr. J. JULIET PUSHPA, Ph.D. (Law)

Principal District Judge, Tiruvallur

Tuesday, the 7th day of April, 2026

Probate O.P. No.146/2025

(CNR No. : TNTR010095542024)

In the Matter of the Last Will
and Testament
dated 18.06.2016 executed by
late. S. THULASINGAM
(died on 28.01.2019)

S. Kabilarajan

...Petitioners

Versus

1. Mohanasundari
2. Selvi

...Respondents

This petition is coming on for final hearing on 27.03.2026 in the presence of M/s Na. Malai Saavanan, N Murugesan, K. thirumavalavan, S.Rajendiran, V. Balachandran, and M/s K. Janarthanan, advocate for the respondents, having the respondents filed consent affidavit, having Paper Publication and General Publication being effected, there are No other objectors and upon perusing the entire case records, this Court delivers the following:-

ORDER

Petition filed by the petitioner under Section 222 and 276 of Indian Succession Act to permit the petitioner to prove the Will dated 18.06.2016 executed by the deceased S. Thulasingham (died on 28.01.2019) in common form and that probate thereof to have effect limited to the State of Tamil Nadu.

2. The averments in the Petition filed by Petitioner is as follows:-

According to the petitioner, petition schedule property was purchased by one S. Thulasingham, under a sale deed dt. 19.08.1985 under Doc.No.2422/1985 from Maimoon Bi and was in possession of the same. The said S. Thulasingham and his wife T. Menakavalli were living at D.No.48, 2nd street, Kanniappa Nagar sathangadu, Chennai and they had no issues. His wife Menakavalli died on 15.01.2016. Petitioner is the brother of S. Thulasingm. During his life time, he executed a Will dt. 18.06.2016 in thereby bequeathing the item No.1 of the petition owned by him in favour of petitioner and the LIC policy bearing Policy No. VRS/609982-LIC for value of Rs.4,36,625- to the credit of his savings Bank account NO.497372096 at Indian Bank Thiruvottiyur as item No.2 in favour of his sisters, the respondents herein. Subsequently S. Thulasingham died on 28.01.2019 in Door No.48, New Door No.48/1, 2nd street, Kanniappa Nagar, Chennai. After the demise of S. Thulasingham, the respondents are entitled to item No.2 policy amount equally and the item No.1 which was bequeathed to the petitioner. After the death of S. Thulasingham became the absolute owner of the property under Item No.1. In the death certificate of wife of S. Thulasingham, it was wrongly typed as Moganammal instead of t. Menakavalli. The value of the property under item No.1 is only Rs.46,30,000/-. The petitioner undertakes to administer the property bequeathed under the Will in favour of petitioner. Hence, this petition to probate the Will dt .18.06.2016 executed by S. Thulasingham .

3. The respondents have not filed counter to contest this petition. Instead, the respondents filed consent affidavit having no objection to this petition. Paper Publication and General Publication were effected and there are no objectors.

4. In continuation, on the petitioner's side, the petitioner was examined as PW1 and one of the attestors of the Will namely, Mr. Ramesh was examined as PW2 and marked Ex.P1 to Ex.P10.

5. Now the points for consideration in this petition are,

1. *Whether the Will executed by deceased S. Thulasingham on 18.06.2016 in favour of the petitioner is to be probated?*
2. *Whether this petition is to be allowed?*

6. **POINTS:**

Heard petitioner.

This petition is filed by the petitioner seeking for probating of the Will dated 18.06.2016 executed by S. Thulasingham, which is his last Will and Testament.

7. The petitioner in order to substantiate his case has examined himself as PW1. The case of the petitioner is that item No.1 of the petition schedule property was purchased by S. Thulasingham, under a registered sale deed dated 19.08.1985 under Doc.No.2422/1985 , which is evident from **Ex.P1**, copy of the sale deed. During his life time, he executed Will dated 18.06.2016 thereby bequeathing the item No.1 of the petition schedule property in favour of petitioner and item No.2 LIC policy in favour of the respondents equally. It is evident from the Will dt. 18.06.2016, **Ex.P5** and the LIC policy , **Ex.P7**. The savings bank account of the

said S. Thulasingham is Ex.P8. Subsequently he died on 28.01.2019, it is evident from his death certificate, Ex.P4 . His wife Menagavalli predeceased him.

8. Petitioner has also examined one of the attestors of the Will , Mr. Ramesh as PW2. He deposed about his attesting in the Will along with another witnesses, Nandhivarman , Selvakumar and execution of the same by S. Thulasingham, on 18.06.2016. The signature of PW2 in the Will is **Ex.P9** and copy of his aadhar card is **Ex.P10**.

9. As per the Ex.P5 Will, petitioner's brother S. Thulasingham, bequeathed the Item No.1 of the petition schedule property in favour of the petitioner and item No.2 in the will which is the LIC Policy and credits therein in favour of the respondents who are the sisters of the deceased. Thus, after the death of the testator S. Thulasingham, the petitioner, being the only beneficiary under the Will in respect of the item No.1 of the petition schedule has come forward to probate the Will in respect of the item No.1 of the petition schedule property bequeathed by the testator S. Thulasingham

10. The testator, S. Thulasingham, bequeathed the credits of his LIC Policy which is shown as item No.2 in favour of the respondents. As such, the respondents have filed consent affidavit to probate the Will in favour of petitioner in respect of the item NO.1 of the petition schedule property. There are no objectors to this petition inspite of Paper Publication and General Publication. Hence, the petitioner's counsel prayed to probate the Will dated 18.06.2016 executed by the testator S. Thulasingham , in respect of the petition schedule property.

11. In general, a Will has to be proved by sufficient attesting witnesses as stated in Section-67 of the Bharatiya Sakshya Adhiniyam which reads as follows:-

Section-67: Proof of execution of document required by law to be attested.

67. If a document is required by law to be attested, it shall not be used as evidence until one attesting witness at least has been called for the purpose of proving its execution, if there be an attesting witness alive, and subject to the process of the Court and capable of giving evidence:

Provided that it shall not be necessary to call an attesting witness in proof of the execution of any document, not being a will, which has been registered in accordance with the provisions of the Indian Registration Act, 1908, unless its execution by the person by whom it purports to have been executed is specifically denied.

12. The petitioner who has been examined as PW1 in his evidence deposed that the said Will dated 18.06.2016 is the last Testament executed by the testator S. Thulasingham in favour of the petitioner and in terms of the Will, petitioner is entitled to the petition schedule property which was bequeathed in the Will.

13. In order to prove the Will as per Sections 58 and 67 of the Bharatiya Sakshya Adhiniyam, on the petitioner's side, one of the attestors of the Will namely, Mr. Ramesh, was examined as PW2. He has deposed about his attesting in the Will executed by testator S. Thulasingham on 18.06.2016. He has also deposed that the testator S. Thulasingham executed the Will in a sound and disposing state of mind, thereby corroborating the evidence of P.W.1. Thus, after his death, the

petitioner is entitled for item No.1 of the property of in the Will. There are no other objectors for this petition.

14. As per Sections 58 and 67 of the Bharatiya Sakshya Adhiniyam, the burden of proving due and valid execution of a Will is on the Propounder who has to prove the Will. The propounder of the Will has to prove the legality, execution and genuineness of the said will by proving absence of suspicious circumstances surrounding the Will and also by proving the testamentary capacity and the signature of the Testator. In this case, the petitioner has proved the Will by way of examining one of the attestors, PW2 who has deposed about the execution of the registered Will executed by the testator S. Thulasingam on 18.06.2016. The evidence of PW2 supports the execution of the Will.

15. Even there is no objection from the public and it was confirmed through general publication and paper publication. Moreover, in the Will, the testatrix has bequeathed the Schedule mentioned property in favour of petitioner, who is none other than his brother, and he was living under the care and custody of the petitioner till his death.

16. Petitioner and the respondents are the Class-II Legal Heirs of the deceased S. Thulasingam. There are no other legal heirs to the testator S. Thulasingam. In this regard, the other legal heirs testator S. Thulasingam, i.e. respondents, who are the sisters of the deceased have filed affidavits before this Court stating that they have no objection to probate the Will executed by testator S. Thulasingam in favour of the petitioner in respect of item No.1. So, it appears

that there are no suspicious circumstances surrounding the Will. Thus, from the evidences of P.W.1 and PW2 and Ex-P1 to Ex-P10, it is crystal clear that the petitioners are the only beneficiaries under Ex.P5, Will.

17. The petitioner is none other than the daughter of the testator S Thulasingam. Thus, considering the relationship between the petitioners and the deceased testator S. Thulasingam the Will is proved beyond reasonable doubt and there is no impediment to issue the Certificate of Probate of the Will in favour of petitioner in respect of the property under the Will .

18. Under the above circumstances, the Will dated 18.06.2016 executed by deceased testator S. Thulasingam shall be probated in favour of petitioner in respect of the petition schedule property and the points are answered accordingly.

In the result, this petition is allowed in respect of the Item No.1 of the petition mentioned property in favour of the petitioner under the Will dated 18.06.2016 executed by the deceased testator S. Thulasingam, S/o Sivaprakasam (died on 28.01.2019). The True Copy of the Will executed on 18.06.2016 is to be annexed with the Certificate of Probate. Issue Certificate.

Dictated to the Steno-Typist, transcribed by him, corrected and pronounced by me in the Open Court, on this the 7th day of April , 2026

**PRINCIPAL DISTRICT JUDGE,
TIRUVALLUR**

Annexures :**1. List of Witnesses examined on the side of the Petitioner:-**

P.W.1 – Thiru. S. Kabilarajan (Petitioner)

P.W.2- Mr. Ramesh

2. List of Exhibits on the side of the Petitioner:-

Ex-P1 – 19.08.1985 Copy of the Sale deed under Document No.2422/1985 in the name of S. Thulasingam

Ex-P2 - Copy of the aadar card of S. Thulasingam (Compared with original)

Ex-P3 - Copy of the Family card of S. Thulasingam (Compared with original)

Ex-P4 - 02.09.2025 Death certificate of S. Thulasingam

Ex-P5 - 18.06.2016 Will executed by S. Thulasingam

Ex.P6 - Copy of the aadar card of petitioner, S. Kabilarajan (Compared with original)

Ex.P7 - 03.07.1996 LIC Policy bearing Policy VS/60983 in the name of S. Thulasingam

Ex.P8 - Copy of the bank pass book in the name of S. Thulasingam in Indian Bank, Thiruvottiyur Branch

Ex.P9 - 18.06.2016 Signature of PW2 Ramesh in the Will

Ex.P10 - Copy of the aadar card of PW2 Ramesh (Compared with original)

2. List of witnesses and exhibits on the side of respondent : NIL

**PRINCIPAL DISTRICT JUDGE,
TIRUVALLUR**