



WEB COPY

OP No. 863 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-09-2026

CORAM

THE HON'BLE DR.JUSTICE A.D.MARIA CLETE

OP No. 863 of 2024

D.Kasi

S/o. Late Dhanikachalam,
New No.15, Old No.5/1, East Jones Road,
Saidapet, Chennai 600 015.

..Petitioner(s)

Vs

1. M.Soundeswari
W/o. Late Dhanikachalam,
New No.15, Old No.5/1, East Jones Road,
Saidapet, Chennai 600 015.

2. D.Baskarathondaiman
S/o. Late Dhanikachalam,
No.85, Flat G.Third Floor,
Sun Flower Apartments,
10th Avenue, Ashok Nagar,
Chennai 600 083

3. Kala .D
D/o. Late Dhanikachalam,
W/o. Sivalingam,
No.126, Mariyamman Kovil Street,
Aradapattu,
Tirunavannamalai 606 808.

4. Dheepa.D.
D/o. Late Dhanikachalam,
W/o. SakthiVel,
No.16, Perumal Samy Nagar,
Maharajapuram,
Villupuram 605 602.

..Respondent(s)

PRAYER – Original Petition filed under Sections 222 and 276 of the Indian Succession Act, 1925 read with the Orders XXV Rule 4 of O.S. Rules of the



High Court, Madras Original Side, 1956, that he may be allowed to prove the Last Will and Testament dated 02.02.2015 of the said Dhanikachalam which was duly executed by him before the Sub Registrar, T.Nagar, Registered as Document No.4, of 2015 of Book III, on the 2nd day of February, 2015, in common form and that probate thereof to have effect throughout the State of Tamil Nadu may be granted to him. Gross Amount of Rs.40,05,000/- and Net Amount of Rs.39,85,000/- Suc. duty of Rs.25,000/- paid on 29.08.2025 by e-C/F D.No.34232/2025.

For Petitioner(s): Mr.Duraikkan S.Phillip

For Respondent(s): No appearance

ORDER

This petition has been filed praying to allow the petitioner to prove the Will dated 02.02.2015 in common form and that the probate thereof to have effect limited to the State of Tamil Nadu may be granted to the petitioner.

2. The petitioner submits that he is the son of the deceased Dhanikachalam (hereinafter referred as Testator), the 1st respondent is the wife of the testator and respondents 2 to 4 are the other children of the testator. The testator was married to the 1st respondent and they had four children who are the petitioner and the respondents 2 to 4. The petitioner states that the testator died in his house on 24.09.2022, where he permanently resided until his death and the testator died leaving behind the petitioner and the respondents as his only class



II legal heirs. The petitioner states that the Last Will and Testament of the deceased was duly executed by him at Chennai out of his free Will on 02.02.2015 in presence of two witnesses and the petitioner submits that the testator has explicitly named the petitioner as the executor in his Will, thereby the petitioner has preferred the present petition for issuing probate. The petitioner states that the amount of assets which are likely to come into the petitioner's hand does not exceed in the aggregate the sum of Rs.40,05,000/- and the net amount after deducting all items is by value of Rs.39,85,000/- and thus sought for allowing this petition.

3. By order dated 17.11.2025, the learned Master has stated that service completed and the matter has been placed before this Court and on 26.11.2025, this case was sent to learned Master for recording evidence. On 03.08.2026, the petitioner examined himself as PW1 and marked Ex.P.1 to Ex.P.12 namely, Ex.P.1 is the original Will dated 02.02.2015 executed by M.Thanigasalam, Ex.P.2 is the computer generated death certificate of M.Thanigasalam, Ex.P.3 is the computer generated legal heirship certificate of M.Thanigasalam, Ex.P.4 is the photocopy of the Aadhaar card of M.Thanigasalam (compared with the original), Ex.P.5 is the photocopy of the sale deed dated 09.10.2000 (compared with the original), Ex.P.6 is the photocopy of the Aadhaar card of Kasi.D (compared with the original), Ex.P.7 is the photocopy of the Aadhaar Card of M.Soundeswari (Compared with the original), Ex.P.8 is the photocopy of the



Aadhaar Card of D.Baskarathondaiman (compared with the original), Ex.P9 is the photocopy of the Aadhaar Card of Kala.D (compared with the original), Ex.P10 is the photocopy of the Aadhaar card of Dheeba.D (compared with the original), Ex.P11 is the affidavit of assets showing the net value of an estate of Rs.39,85,000/-, Ex.P12 is the certificate under Section 63(4)(c) of BSA.

4. The second attesting Witness Mrs.M.Kamalam, has been examined as PW2 and stated that Thanigasalam was her brother-in-law and she had known the testator since her marriage and the testator was in a sound state of mind at the time of execution of Ex.P.1, Will and marked Ex.P.13 which is the photocopy of her Aadhaar card (compared with the original). She further stated that the testator signed the Will in her presence and in the presence of the first attesting witness Mrs.M.Dharmasoundari, her elder daughter. Their evidence establishes the execution and attestation of the Will in the manner required by law.

5. The evidence of the attesting witnesses is consistent with their affidavits filed along with the petition. There is no material contradiction concerning the execution, attestation or testamentary capacity of the testatrix. No suspicious circumstance surrounding the execution of the Will has been brought to the notice of this Court.



6. In spite of the fact that the 2nd respondent is one of the beneficiary under the Will, though notice has been served on the person and their names are printed in the cause list, there is no representation for the respondents either in person or through counsel.

7. The original Will has thus been produced; its execution and attestation have been proved through both attesting witnesses; the testamentary capacity of the testator has been spoken to; and there is no circumstance creating any legitimate suspicion regarding the genuineness of the Will. This Court is therefore satisfied that the Will dated 02.02.2015 is the last Will and Testament of late Dhanikachalam and that the petitioner is entitled to probate.

8. Accordingly, this Original Petition is allowed. Probate of the last Will and Testament dated 02.02.2015 of late Dhanikachalam is granted to the petitioner, to have effect throughout the State of Tamil Nadu.

9. The petitioner shall duly administer the estate and file a true and full inventory within six months from the date of grant and render true and proper accounts within one year from the said date. No order as to costs.

02-09-2026

GSA

**List of witnesses examined on the side of the petitioner:**

P.W.1 – Mr.D.Kasi

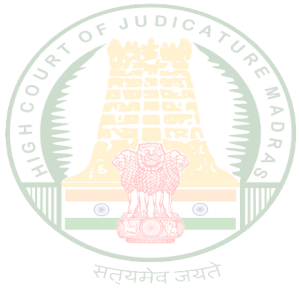
P.W.2 – Mrs.M.Kamalam

List of documents marked on the side of the petitioner:

Ex.P1	original Will dated 02.02.2015 executed by M.Thanigasalam.
Ex.P2	the computer generated death certificate of M.Thanigasalam.
Ex.P3	computer generated legal heirship certificate of M.Thanigasalam.
Ex.P4	photocopy of the Aadhaar card of M.Thanigasalam (compared with the original).
Ex.P5	photocopy of the sale deed dated 09.10.2000 (compared with the original).
Ex.P6	photocopy of the Aadhaar card of Kasi.D (compared with the original).
Ex.P7	photocopy of the Aadhaar Card of M.Soundeswari (Compared with the original).
Ex.P8	photocopy of the Aadhaar Card of D.Baskarathondaiman (compared with the original).
Ex.P9	photocopy of the Aadhaar Card of Kala.D (compared with the original).
Ex.P10	photocopy of the Aadhaar card of Dheebea.D (compared with the original).
Ex.P11	the affidavit of assets showing the net value of an estate of Rs.39,85,000/-.
Ex.P12	the certificate under Section 63(4)(c) of BSA.
Ex.P13	photocopy of Aadhaar card of Mrs.M.Kamalam (compared with the original).

List of Witnesses examined on the side of the respondents: Nil**List of Documents marked on the side of the respondents: Nil****02.09.2026**

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