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O.P. No.355 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-07-2026

CORAM:

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

O.P.No.355 of 2018

Margaret Rosalin
W/o Late Antony Chandrakumar
No.54/129, Kodambakkam High Road,
T.Nagar, Chennai 600 017

..Petitioner

Vs

1. Devakumar Nicholas,
S/o Late Antony Chandrakumar,
No.54/129, Kodambakkam High Road,
T.Nagar, Chennai 600 017
2. Josephin Ramiah,
D/o Late Antony Chandrakumar,
No.54/129, Kodambakkam High Road,
T.Nagar, Chennai 600 017
3. G.Joseph Rajkumar,
S/o Late D.Gnanaprakasam,
No.54. Kodambakkam High Road,
T.Nagar, Chennai 600 017

..Respondents

PRAYER: Original Petition filed under Sections 232, 255 and 276 of Indian Succession Act 39 of 1925 read with Order XXV Rule 5 of the Original Side Rules, praying that the Letters of Administration with the Will annexed to the petitioner as the daughter-in-law and wife of the legatee named under the



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Will dated 14.07.2000 of the said deceased having effect limited throughout the State of Tamil Nadu.

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For Petitioner: Mr.A.Saravanan

For Respondents: No appearance

ORDER

This Original Petition has been filed under Sections 232, 255 and 276 of the Indian Succession Act, 1925, read with Order XXV Rule 5 of the Original Side Rules, seeking grant of Letters of Administration, with the Will annexed, in respect of the estate of late D. Ganaprakasam, died on 28.08.2000.

2. The petitioner claims that the deceased executed a registered Will dated 24.07.2000, registered as Document No.102 of 2000 on the file of the Sub-Registrar, T. Nagar. The petitioner has sought the grant on the basis that her husband, late Antony Chandrakumar, was a beneficiary under the Will and that, upon his subsequent death intestate on 18.07.2013, she became entitled to represent his interest.

3. The petitioner, Margaret Rosalin, is the widow of Antony Chandrakumar, one of the sons of the testator. The first respondent,



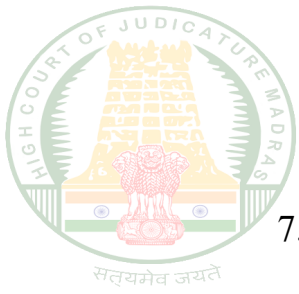
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Devakumar Nicholas, and the second respondent, Josephin Ramiah, are respectively the son and daughter of late Antony Chandrakumar and the petitioner. The third respondent, G. Joseph Rajkumar, is the other son of the testator and the brother of Antony Chandrakumar.

4. Notices were issued to the respondents. General notice was also effected by publication in the Tamil daily “Makkal Kural” dated 19.08.2022 and the English daily “Trinity Mirror” dated 26.08.2022. The third respondent was earlier set ex parte by order dated 28.11.2022.

5. The petitioner examined herself as P.W.1 and marked the original Will dated 24.07.2000 as Ex.P1. The death certificates, affidavit of assets, paper publications and the legal heir certificate of Antony Chandrakumar were marked as Exs.P2 to P10. M. Elisiyus Fernando, one of the attesting witnesses to Ex.P1, was examined as P.W.2, and his identity document was marked as Ex.P11.

6. While considering the entitlement of the petitioner to the grant, this Court finds that the petitioner herself is one of the attesting witnesses to Ex.P1. The beneficiary through whom the petitioner claims is her husband, Antony Chandrakumar.



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7. Section 67 of the Indian Succession Act, 1925, provides that a Will shall not be rendered insufficiently attested merely because a benefit is given to an attesting witness or to the husband or wife of such witness. The provision, however, expressly declares that the bequest or appointment shall be void insofar as it concerns the attesting witness, the spouse of such witness, or any person claiming under either of them.

8. Therefore, the circumstance that the petitioner attested Ex.P1 does not invalidate the entire Will. However, the bequest in favour of her husband, Antony Chandrakumar, is rendered void by operation of Section 67. The petitioner and respondents 1 and 2 claim only through Antony Chandrakumar and cannot derive a testamentary benefit under the bequest which has been rendered void by statute.

9. The petition has been presented by the petitioner on the specific basis that she is the widow and legal representative of Antony Chandrakumar, the beneficiary under the Will. Since the bequest in favour of Antony Chandrakumar is rendered void under Section 67 of the Indian Succession Act, 1925, the basis on which the petitioner seeks Letters of Administration does not survive.



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10. Accordingly, O.P.No.355 of 2018 is dismissed. No costs.

Consequently, the connected applications, if any, stand closed.

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To:

1. Devakumar Nicholas,
S/o Late Antony Chandrakumar,
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2. Josephin Ramiah,
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DR.A.D.MARIA CLETE, J.

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