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O.P. No.42 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-07-2026

CORAM:

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

O.P.No.42 of 2023

1. J.Santhosh Kumar
2. J.Suresh Kumar
3. J.Ramesh
4. G.Sumathi
- 5.J.Dinakaran
6. J.Narendiran
7. J.Gothandaraman
- 8.T.Lakshmi

..Petitioners/ Applicants

PRAYER: Original Petition filed under Sections 232 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 may be granted to the petitioners, legal heirs of the beneficiary under the Will of the said deceased having effect throughout the State of Tamil Nadu.

For Petitioner: Mr.A.Palaniappan
For Ms.P.Veditha



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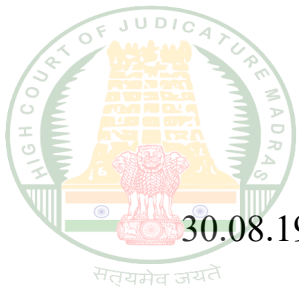
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ORDER

This Original Petition has been filed under Sections 232 and 276 of the Indian Succession Act, 1925, for grant of Letters of Administration with the Will dated 04.06.1964 of B. Audiyammal annexed.

2. The petitioners are the children of V.V. Janakiraman, who is the deceased brother's elder daughter's son. Their case is that B. Audiyammal, who died issue-less on 09.06.1972, executed a registered Will dated 04.06.1964, registered as Document No.18 of 1964 in Book III on the file of the Sub-Registrar, Arani. Under the Will, the property at Door No.28/64, Vengu Chetty Street, Park Town, Chennai, described as Schedule-A therein, was bequeathed to V.V. Janakiraman, while the property at Arani was bequeathed to Srinivasan. No executor was appointed. V.V. Janakiraman died on 13.02.1999 and his wife, Lalitha Janakiraman, died on 17.11.2018. The petitioners seek the grant as the legal heirs of V.V. Janakiraman.

3. The original Will has not been produced. The petitioners state that it was lost during the lifetime of V.V. Janakiraman. A certified copy obtained from the Sub-Registrar was marked as Ex.P1. The sale deed dated



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30.08.1954, the release deed dated 06.10.1966, the death certificates of the testatrix, V.V. Janakiraman and Lalitha Janakiraman, the legal-heirship certificates, the affidavit of assets and the paper publications were marked as Exs.P2 to P11. The estate has been valued at Rs.50,00,000/-.

4. Since both the attesting witnesses were stated to be dead, G. Sekar was examined as P.W.2. He stated that the testatrix was his father's cousin and that his grandfather, C.N. Annamalai Chettiar, was one of the attesting witnesses to Ex.P1. He further stated that he came to know from his parents about the execution of the Will by Audiyammal and about his grandfather subscribing his signature as an attesting witness. His evidence regarding both the execution of the Will and the attestation is thus derived from what he had been told by his parents and does not establish that he was personally acquainted with the signature or handwriting of the attesting witness.

5. Bhuvaneswari was examined as P.W.3. She stated that Audiyammal had brought up V.V. Janakiraman and that C.N. Annamalai Chettiar was her grandfather. She, however, expressly stated that she did not know the signature of Audiyammal and that she was not fully aware of the manner in which C.N. Annamalai Chettiar was connected with the Will. Her evidence,



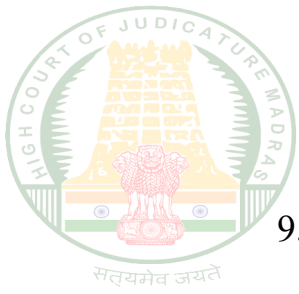
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therefore, does not establish the signature of the testatrix or prove the handwriting of the attesting witness.

6. Under Section 69 of the Evidence Act, where no attesting witness can be found, the petitioners must prove that the attestation of at least one attesting witness is in his handwriting and that the signature of the executant is in the handwriting of the executant. Neither requirement has been satisfied.

7. The petition was also presented nearly five decades after the death of the testatrix and more than two decades after the death of the beneficiary. Delay by itself may not defeat a testamentary proceeding, but such an extraordinary delay required a satisfactory explanation regarding the custody of the original Will, the circumstances of its loss and the steps taken to trace it. The evidence on these aspects is general and unsupported.

8. The petitioners rely upon the fact that the property was purchased by the testatrix under the sale deed dated 30.08.1954, after the death of her husband, and was therefore her absolute property. That circumstance does not dispense with the requirement to disclose and notify all persons having a caveatable interest.



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9. The testatrix died in 1972 and, therefore, the Hindu Succession Act, 1956, governed the succession to her estate in the event of intestacy. As she died without children and her husband had predeceased her, the persons answering the description of the heirs of the husband under Section 15(1)(b) constituted the next line of succession and had a caveatable interest in the estate. The petition does not disclose the genealogy of the husband's branch or implead such heirs. The further affidavit merely states that the husband had died around the year 1918 and that his heirs could not be traced. The inability of the petitioners to trace them cannot extinguish their statutory interest or justify proceeding without notice to them. The requirements arising under Section 15(1)(b) have therefore not been complied with.

10. In view of the aforesaid reasons Letters of Administration with the Will annexed cannot be granted. Accordingly, O.P.No.42 of 2023 is dismissed. No costs. Consequently, the connected applications, if any, stand closed.

23.07.2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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DR.A.D.MARIA CLETE, J.

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Order made in
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Dated:
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