

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(TESTAMENTARY AND INTESTATE JURISDICTION)

DATED, 29TH DAY OF SEPTEMBER 2015

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

O.P.NO.419 OF 2014

In the matter of Indian
Succession Act, 1925

and

In the matter of the last Will
and testament of late
Sharda Sutwala Deceased

Anupam Sutwala,
G-B, Rosslyn Place,
No.9, Dr.Gurusamy Road,
Chetpet, Chennai 600 031

...Petitioner

-vs-

1.Kishan Lal Sutwala,
2.Lalit Sutwala
Both at Q/F/8/1,
Padam Apartments,
16/16 Civil Lines,
Kanpur 208 001

3.Nikhil Churiwal,
32 J New Road,
Alipore, Kokatta 700 027

4.Kirti Singhania,
5 Camac Street
Shree Niket Building,
Kolkatta 700 017

5.Rachna Jalan,
504, Varsha Apartments
221 C V Raman Road, Sadshiva Nagar,
Bangalore 560 080

...Respondents

This Original Petition praying that this Hon'ble

Court be pleased to grant Letters of Administration with the Will annexed to him as the son/sole beneficiary under the Will of the said deceased dated 19.03.2006, having effect limited to the State of Tamil Nadu.

This Original Petition coming on this day before this court for hearing the court made the following order:

This Petition has been filed under Sections 232 and 276 of the Indian Succession Act read with Order XXV Rule 5 of the High Court Original Side Rules, seeking the grant of Letters of Administration.

2. Heard the learned counsel appearing for the petitioner.

3. In the petition, it is stated that the deceased Sharda Sutwala, died on 05.02.2007 at No. 16/16, Civil Lines, Kanpur. It is further stated that the deceased has executed her last testament and Will on 19.03.2006 in favour of the petitioner as well as the respondents. It is further stated that the petitioner is the son of the deceased, the respondent No.1 is the husband, respondent No. 2 is the son, respondent No. 3 is the grand son,

respondent Nos. 4 and 5 are the granddaughters of the deceased Sharda Sutwala. It is further stated that daughter of the testatrix namely Saritha Churiwal, predeceased the testatrix on 09.07.2003. The husband of Saritha Churiwal i.e., the son-in-law of the testatrix also died on 26.03.1993. The legal heirs of said deceased Saritha Churiwal are the respondent Nos. 3 to 5 herein. It is further submitted that the net amount of the assets in favour of the beneficiaries does not exceed in the aggregate sum of Rs.6,00,000/-. The petitioner undertakes to duly administer the property and credits of the late Sharda Sutwala and in any way concerning the Will by paying first her debts and then the legacies therein bequeathed so far as the assets will extend and to make a full and true inventory thereof to the Court within six months from the date of grant of Letter of Administration to the petitioner. No application has been filed in any other Court for the probate of the Will of the said deceased or Letters of Administration with or without the Will annexed to his property. Hence, the petition.

4. The petitioner, who examined himself as P.W.1, reiterated the averments made in the petition and filed the following documents viz., Exhibit Nos. P.1 to P.13;

- Ex.P.1-The original will executed by the deceased Sharda Sutwala on 19.03.2006.
- Ex.P.2-The photocopy of the death certificate of deceased mother Sharda Sutwala who died on 05.02.2007.
- Ex.P.3-The photocopy of legal heirship certificate dated 11.06.2015 in respect of deceased Sharda Sutwala.
- Ex.P.4-The photocopy of the death certificate of brother-in-law Kamal Churiwal, (deceased sister Sarita Churiwal's husband) who died on 26.03.1993.
- Ex.P.5-The photocopy of death certificate of deceased sister Sarita Churiwal, who died on 09.07.2003.
- Ex.P.6-The consent affidavit given by the 1st respondent stating that he has no objection in grant of letter of administration in favour of the petitioner.
- Ex.P.7-The consent affidavit given by the 2nd respondent stating that he has no objection in grant of latter of administration in favour of the petitioner.
- Ex.P.8-The consent affidavit given by the 3rd respondent stating that he has no objection in grant of letter of administration in favour of the petitioner.
- Ex.P.9-The consent affidavit given by the 4th respondent stating that he has no objection in grant of letter of administration in favour of the petitioner.
- Ex.P.10-The consent affidavit given by the 5th respondent stating that he has no objection in grant of letter of administration in favour of the petitioner.
- Ex.P.11-The affidavit of assets showing the net value of the property for Rs. 6,00,000/-.
- Ex.P.12-The one copy of paper publication effected in one issue of English Daily "News Today" dated 07.02.2015.
- Ex.P.13-Copy of paper publication effected in one issue of Tamil Daily "Malai Sudar" dated 18.02.2015.

5. Mr.Kishan Lal Sutwala, one of the attestors of the Will dated 19.03.2006 was examined by the Advocate Commissioner as per order made in A.No.4599 of 2015, at his residence at Q/F/8/1, Padam Apartments, 16/16Civil Lines, Kanpur - 208 001. In his evidence, P.W.2 has stated that the testator executed his last Will and Testament on 19.03.2006 in his presence and in the presence of Mr. Kishan Lal Sutwala and Mr. P.C. Sutwala who subscribed his signature as the second attesting witness. While executing the Will, the testator was in a sound and disposing state of mind, memory, understanding and in good health.

6. Considering the averments made in the petition and on perusing the materials available on record, I am satisfied that the petitioner is entitled for the issuance of Letters of Administration.

7. Accordingly, this petition is ordered. Issue Letters of Administration in favour of the petitioner. The petitioner is directed to duly administer the properties and credits of the deceased more fully described in the schedule. The petitioner is also directed to execute a security bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) in favour of the Assistant Registrar

(O.S.II), High Court, Madras. The petitioner is further directed to render true and correct accounts once in a year.

Sd/.K.R.C.B.J

29.09.2015

//Certified to be a true copy//

Dated this the day of 2017

R.s/24.04.2017

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.



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