

O.P.No.476 of 2014**R.SUBBIAH, J**

This Petition has been filed under Sections 232 and 276 of the Indian Succession Act, 39 of 1925 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 one S.Ramasamy Iyengar, father of the petitioner died on 21.04.2000 at Sundaram Medical Foundation, Shanti Colony, 4th Avenue, Anna Nagar, Chennai - 40. The deceased was ordinarily residing at New No.6, Old No.51, Indira Nagar, 1st Main Road, Adyar, Chennai. The parents as well as the wife of the deceased predeceased him. The deceased S.Ramasamy Iyengar possessed an immovable property bearing New No.6, Old No.51, Indira Nagar, Adyar, Chennai – 20. The first respondent is the son and the second respondent is the daughter of the deceased respectively. The deceased executed a Will on 26.06.1996 and no executor is appointed under the said Will. The petitioner and his brother viz., the first respondent were in peaceful possession and

enjoyment of their respective portions. Initially, both the respondents had not given consent for probating the Will. Subsequently, the first respondent gave his consent by letter dated 28.05.2011 for probating the Will. But from the encumbrance certificate, it came to light that the first respondent had already sold his share of the property by sale deed dated 15.12.2010. The petitioner is taking steps to have the sale deeds dated 04.06.1993 and 15.12.2010 set aside. The amount of assets which is likely to come to the petitioner's hands does not exceed in the aggregate sum of Rs.3,50,00,000/- and the net amount of the said assets after deducting all the items, which the petitioner is by law allowed to deduct is only of the value of Rs.3,50,00,000/-. The petitioner has impleaded all the next of kin of the deceased and other persons interested as respondents. There are no other relatives or legal heirs of the deceased except the respondents and the second respondent has filed her consent affidavit. The petitioner undertakes to duly administer the property and credits of the deceased S.Ramasamy Iyengar and in any way concerning his Will by paying first his debts and then the legacies therein bequeathed so far as the assets will extend and to make a full and true inventory thereof and exhibit the same to the Court within six months from the date of grant of Letters 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.Though notice was served by way of paper publication, the respondents have not chosen to enter appearance. Therefore, the matter was directed to be listed on 25.03.2015 by printing the names of the respondents. Since there was no representation for the respondents, they were set exparte by order dated 25.03.2015.

5.The petitioner, who examined himself as P.W.1, reiterated the averments made in the petition and filed the following documents viz., Exs.P1 to P7;

Ex.P1 is the Original Will dated 26.06.1996 executed by the petitioner's father S.Ramaswamy Iyengar.

Ex.P2 is the Original Death Certificate of the petitioner's father S.Ramaswamy Iyengar, who died on 21.04.2000.

Ex.P3 is the computer generated downloaded copy showing the guideline value of the Will mentioned property.

Ex.P4 is the consent affidavit given by the second respondent

who is the petitioner's sister stating that she has no objection in grant of letters of administration in favour of the petitioner.

Ex.P5 is the copy of the paper publication effected in Tamil Daily Makkal Kural dated 12.02.2015.

Ex.P6 is the copy of the paper publication effected in English Daily Trinity Mirror dated 19.02.2015.

Ex.P7 is the affidavit of assets showing the net value of the property of Rs.3,50,00,000/-.

6.One of the attestors of the Will dated 26.06.1996 viz., R.Natarajan was examined as P.W.2. In his evidence, P.W.2 has stated that the testator executed his last Will and Testament on 26.06.1996 in his presence and in the presence of one T.V.Ranganathan. At his request, P.W.2 subscribed his signature as second attesting witness along with T.V.Ranganathan, who attested the Will as the first attesting witness in the presence of the testator. While executing the Will, the testator was in a sound and disposing state of mind, memory and in good health. Ex.P8 is his affidavit in this regard.

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

8.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.

25.03.2015

mmi

2/2

R.SUBBIAH, J

mmi

O.P.No.476 of 2014

25.03.2015