

O.P.No.329 of 2013**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 the Testatrix M.I.Saraswathy died on 13.11.2012 at Flat 3C, Block 1, Cedar Park, 4th Main Road Extension, Kotturpuram, Chennai - 85 and she was ordinarily residing in the said address. She was unmarried and her parents as well as brothers pre-deceased her. She executed her last Will and testament on 05.05.2009. As per the Will, the petitioner, who is the nephew of the deceased is entitled to the movable and immovable properties of the deceased. The Testatrix M.I.Saraswathy is the aunt of the petitioner. The amount of assets which is likely to come to the hands of the petitioner does not exceed in an aggregate sum of Rs.51,00,000/- and the net amount of the said assets, after deducting all items which the petitioner is by law allowed to deduct is only of the

value of Rs.50,80,000/-. The petitioner undertakes to duly administer the property and credits of the deceased M.I.Saraswathy 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 and exhibit the same 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 her 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., Exs.P1 to P17;

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| Ex.P.1 | - | Original death certificate of deceased M.I.Saraswathy, who died on 13.11.2012. |
| Ex.P.2 | - | Original registered Will dated 05.05.2009 executed by deceased M.I.Saraswathy. |
| Ex.P.3 | - | Original letter given by the Tahsildar, Guindy, Taluk, Chennai stating that the deceased does not have direct legal heirs. |
| Ex.P.4 | - | Copy of the secondary school leaving certificate of the deceased M.I.Saraswathy. |

- Ex.P.5 - Copy of the secondary school leaving certificate of the petitioner's father Mahadeva Iyer, who is the brother of the deceased M.I.Saraswathy.
- Ex.P.6 - Copy of the death certificate of the petitioner's father M.Krishnamoorthy, who died on 12.04.1985
- Ex.P.7 - Computer generated death certificate of Dr.M.A.Ranganathan, brother of the deceased M.I.Saraswathy, who died on 01.07.2008.
- Ex.P.8 - Photocopy of the sale deed dated 27.03.1996 executed by S.I.Property Development Ltd., in favour of Mahadeva Iyer, who is the brother of the deceased M.I.Saraswathy registered as Document No.4146/1996 on the file of SRO, Adyar.
- Ex.P.9 - Photocopy of fixed deposit receipt dated 07.03.2009 standing in the name of the deceased M.I.Saraswathy issued by the Bank of India.
- Ex.P.10 - Photocopy of the order of Corporation of Chennai dated 16.07.2010 for effecting name transfer from Mahadeva Iyer Ranganathan and two others to Mahadeva Iyer Saraswathy and Krishnamoorthy Mahesh in respect of the property situated at Door No.9/21, 16 BC/21, Kottur Garden 4th Main Road Extension, Kottur Garden, Kottur, Chennai.
- Ex.P.11 - Photocopy of the certified copy of the order passed in O.P.No.597 of 2009.
- Ex.P.12 - Photocopy of letters of administration without Will dated 20.04.2010 in respect of the property situated at Door No.9/21, 16 BC/21, Kottur Garden 4th Main Road Extension, Kottur Garden, Kottur, Chennai.

- Ex.P.13 - Consent affidavit given by the respondent stating no objection for grant of letters of administration in respect of the property mentioned in the petition.
- Ex.P.14 - Copy of the paper publication effected in one issue of Tamil Daily Makkal Kural dated 23.11.2013.
- Ex.P.15 - Copy of the paper publication effected in one issue of English Daily "Trinity Mirror" dated 02.12.2013.

She has further stated that the Will-Ex.P.2 has been attested by two attesting witnesses viz., Mr.V.Suresh and Mr.S.Suresh Babu. The petitioner has not filed any other petition before any other Court seeking the same relief.

5. One of the attesting witnesses examined himself as P.W.2 and in his evidence, he has stated that the Testatrix executed her last Will and Testament on 05.05.2009 in the presence of P.W.2 and in the presence of P.W.3. P.W.2 subscribed his signature as the first attesting witness along with P.W.3, the second attesting witness. The Testatrix was in a sound and disposing state of mind, memory and in good health at the time of execution of Ex.P.2 Will.

6.Considering the averments made in the petition and

considering the affidavit filed by the petitioner and on perusing the materials available on record, I am satisfied that the petitioner is entitled to 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.

30.01.2015

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R.SUBBIAH, J

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