

Original Petition No.852 of 2013**R.SUBBIAH, J.,**

Though notice was served on the 2nd respondent and his name also is printed in the cause list today, he has neither chosen to appear in person nor through counsel. Since there is no representation for the 2nd respondent, he is set ex-parte. Though 1st respondent is represented by a counsel, he is not contesting the matter. Hence, the matter is taken up for consideration.

2. This petition has been filed for grant of Letters of Administration under Sections 232 and 276 of the Indian Succession Act, 1925 read with Order XXV Rule 5 of Madras High Court Original Side Rules, in favour of the petitioner.

3. Heard the learned counsel appearing for the petitioner.

4. In the petition, it is stated that the petitioner's paternal grandfather Marimuthu @ Mariappan died on 06.02.2012. It is further stated that the 1st respondent is the only son of the deceased. The 2nd respondent is the wife of the deceased. The parent of the deceased pre-deceased him. In fact, the 1st respondent in collusion

with the 2nd respondent had been torturing the deceased Marimuthu and forced to suffer mental agony. It is further stated that the deceased was taken care of by the petitioner and her husband P.K.Gajendiran. It is further stated that the deceased Marimuthu had been suffering from throat cancer and since his retirement in the year 1995 he had been suffering a lot at the hands of the 1st respondent and estranged wife of the deceased. The 1st respondent has failed and neglected to take care of the deceased Marimuthu and till his death the petitioner and her husband is not only providing medical assistance but also financial assistance and moral support to him. Considering the same, the deceased Marimuthu executed a Will dated 13.09.2006 on his own bearing No.16/2006 registered on the file of the District Registrar, Chennai North and thereby bequeathed his property house, ground and premises bearing Door No.25/615 now Old No.5, New No.56, Sathyavani Muthu Street, G.K.M.Colony, Chennai 600 082 to an extent of 2180 sq.ft. of house site with a building in her favour. As per the terms of the Will, the petitioner is the only beneficiary and entitled to the estate of Late Marimuthu and no executor has been appointed with respect to the property by the Testator. It is further stated that the deceased Marimuthu has already filed a case in O.S.No.8206 of 2011 against the 1st respondent and the

Slum Clearance Board which is pending on the file of the III Assistant City Civil Court at Madras. Further, except the petitioner and the respondents there are no other legal heirs to be added as party respondents. The net amount of the assets does not exceed in the aggregate sum of Rs.10,00,000/-. The petitioner undertakes to duly administer the property and credits of the late Marimuthu and in any way concerning the 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 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.

5. The petitioner, who examined herself as P.W.1, reiterated the averments made in the petition and filed the following documents viz., Exs.P.1 to P.6;

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| Ex.P.1 | - | The Original registered Will dated 13.09.2006 |
| Ex.P.2 | - | The computer generated death certificate of M.Marimuthu dated 06.02.2012 |
| Ex.P.3 | - | Certified copy of the plaint in O.S.No.8206/11 before the City Civil Court, Chennai dated 21.10.2011 |

- Ex.P.4 - Affidavit of assets showing the net value of property as Rs.10,00,000/-.
- Ex.P.5 - Copy of the paper publication.
- Ex.P.6 - Copy of the paper publication.

6. One Mrs.G.Vijaya was examined as P.W.2. In her evidence, P.W.2 has stated that deceased Marimuthu was his neighbour and she accompanied the deceased Marimuthu when he was undergoing treatment at Madhavaram Cancer Institute and as such she had the opportunity to know the hand writing and signature of the deceased and the petitioner was attending the Testator at the time of taking treatment in the Cancer Institute and she can identify the signature found in Ex.P.1 Will is that of the deceased Marimuthu. Ex.P.7 is her affidavit in this regard.

7. One Mrs.K.Poongodi was examined as P.W.3. In her evidence, P.W.3 has stated that she is residing in one portion of the house of deceased Marimuthu and she accompanied the deceased Marimuthu when he was undergoing treatment at Madhavaram Cancer Institute and as such she had the opportunity to know the hand writing and signature of the deceased and the petitioner was attending the Testator at the time of taking treatment in the Cancer Institute and

she can identify the signature found in Ex.P.1 Will is that of the deceased Marimuthu. Ex.P.8 is her affidavit in this regard.

8. 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.

9. 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.

27.02.2015

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R.SUBBIAH, J

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