

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2015

CORAM

THE HONOURABLE **Mrs. JUSTICE. S.VIMALA**

T.O.S.No.3 of 2012
(O.P.No.6 of 2011)

Mr. R.Ravi

... Plaintiff

Vs.

1. Mrs. Indira Ramaswamy

2. Mr. R.Raghu

3. Mrs. Radha Shivakumar

... Defendants

Petition under Sections 232 and 276 of The Indian Succession Act XXXIX of 1925 and under Order XXV Rule 5 of the Madras High Court (Original Side) Rules, to grant Letters of Administration with the Will annexed to be granted to the plaintiff/petitioner, as the sole beneficiary under the Will of the said deceased, having effect limited to the State of Tamil Nadu.

For Plaintiff : Mr. P.Sreenivasulu
For Defendants : No Appearance

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J U D G M E N T

This suit has been filed by the plaintiff (petitioner), seeking Letters of Administration with the Will annexed,

pursuant to the Will, dated 28.11.2001.

Brief facts:-

2. The plaintiff and the second defendant are the sons and the third defendant is the daughter of the deceased. The first defendant is the wife of the deceased.

2.1. The deceased executed a Will, dated 28.11.2001, while in a sound disposing state of mind. The Will was duly attested. After the death of the deceased, on 23.06.2002, the Will came into effect and the plaintiff, as the sole beneficiary became entitled to administer the estate under the Will and has filed this suit, seeking Letters of Administration.

3. After the appearance of the third defendant by filing Vakalat, the O.P. has been converted into O.S.

4. The issue to be decided in this Suit is, (a) whether the plaintiff has proved the due execution of the Will; and (b) whether Letters of Administration has to be granted to the plaintiff.

5. When the matter was posted for trial, the learned

counsel for defendants 1 to 3 have made an endorsement in the plaint itself stating that they have no objection in granting Letters of Administration in favour of the plaintiff. To be more elaborate, D-1 and D-2 have filed a written statement expressing their no objection to allow TOS No.3 of 2012.

6. Apart from the endorsement of no objection made, the first defendant, who is the attesor of the Will, has been examined as P.W.1, who has sworn to the affidavit regarding due execution of the Will. This evidence is corroborated by the evidence of the plaintiff (P.W.2) and the affidavit of yet another attesor, P.W.3. Therefore, the Will, dated 28.11.2001, which is marked as Ex.P-1, stands proved through the evidence of these witnesses.

7. It is submitted by the learned counsel for the plaintiff that under the Will nobody has been appointed as Executor and therefore, there is no impediment in granting Letters of Administration in favour of the plaintiff.

7.1. The learned counsel for the plaintiff is right in his submissions. As the Will has been proved, the suit has

to be decreed.

8. In the result, this TOS is allowed, granting Letters of Administration with the Will annexed, in favour of the plaintiff. The plaintiff is directed to execute a personal bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) in favour of the Assistant Registrar (O.S.), High Court of Madras, Chennai - 104. No costs.

sd/.S.V.J
08.06.2015

//Certified to be a true copy//

Dated this the day of 2015.

R.s/07.10.2015

COURT OFFICER

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

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