

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

DATED, 29TH DAY OF APRIL 2016

THE HON'BLE MR. JUSTICE K.K.SASIDHARAN

OP.NO.765 OF 2014

In the matter of Indian
Succession Act 39 of 1925

and

In the matter of Last Will
and Testament of
S.A.Vaidyalingam (Deceased)

1.V.Sukumar,
Son of S.A.Vaidyalingam,
No.1, Bharathi Street
Saidapet, Chennai 15

2.V.Shankar,
Son of S.A.Vaidyalingam
No.11/6, Muthialu Street
Saidapet, Chennai 15

3.V.Balakrishnan @ Ramu,
No.16/5, Thulasingham Street
Saidapet, Chennai 600 015

...Petitioners

-vs-

1.P.Prabhu,
Son of R.Panchacharam,
No.6/12, Ponnambala Vathiyar Street
Mylapore, Chennai 600 004

2.B.Uma Maheswari
W/o. Late V.Bhoopathy,
No.7, 7th Main Road,
4th Avenue, 2nd Cross Street (West)
Dhandeswaram, Velachery
Chennai 600 042

3.L.Jagath Janani,
W/o. T.S.Loganathan,
No.10, Ammani Ammal Street
R.A.Puram,
Mandaveli,
Chennai 600 028

...Respondents

This Original Petition praying that this Hon'ble Court be pleased that Letters of Administration with Will dated 02.01.2006 annexed of the properties and credits of deceased, may be granted to the petitioners as the Sons/beneficiaries under the Will Legatee of the said deceased 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 is an original petition filed under Sections 232 and 276 of the Indian Succession Act for the grant of Letters of Administration.

2. The petitioners are the children of Thiru.S.A.Vaidyalingam, who died on 20.09.2006 at Chennai. Thiru.S.A.Vaidyalingam executed his last Will and Testament on 02.01.2006 in the presence of two witnesses. The Will was registered as Document No.01 of 2006 on the file of Sub-Registrar, Adyar.

3. The Testator originally married Tmt.Sundarammal

and in the said wedlock, the first petitioner and Thiru.V.Bhoopathy, predecessor-in-interest of the second respondent were born. Thiru.V.Bhoopathy died on 12.01.1997 and he is survived by the second respondent.

4. The Testator subsequently married Tmt.Gnanambal in 1957. In the said wedlock, Petitioners 2 and 3 and the third respondent were born. The second wife of the Testator died on 24.01.1982. The Will executed by Thiru.S.A.Vaidyalingam contained stipulation with regard to the enjoyment of his property. The first respondent was appointed as the Executor of the Will. However, action was not taken by him on the strength of the Will. The petitioners therefore have come up with this original petition for the grant of letters of administration.

5. The second petitioner was examined as P.W.1. The following documents were marked through him:-

Exhibit s	Documents
Ex.P1	Original Power of Attorney dated 09.02.2016 executed by Petitioners 1 and 3 in favour of 2nd petitioner
Ex.P2	Computer generated death certificate of Thiru.S.A.Vaidyalingam, who died on 20.09.2006
Ex.P3	Original Will executed by S.A.Vaidyalinga, on 02.01.2006 registered as Doc.No.1 of 2006 at SRO, Adyar
Ex.P4	Original legal heir ship certificate dated 11.07.2008 in respect of S.A.Vaidyalingam
Ex.P5	Computer generated death certificate of V.Gnanambal, who died on 24.01.1982

Exhibits	Documents
Ex.P6	Computer generated death certificate of V.Bhoopathy, who died on 12.01.1997
EX.P7	Computer generated death certificate of Sundaram, who died on 14.12.1956
Ex.P8	Photocopy of Patta bearing C.A.No.549/77-78 dated 29.04.1978 in respect of the property mentioned in the Will
Ex.P9	Photocopy of Patta bearing C.A.No.984/01-02 dated 29.01.2002 in respect of the property mentioned in the Will
Ex.P10	Consent affidavit given by the 2nd respondent
Ex.P11	Consent affidavit given by the 3rd respondent
Ex.P12	Affidavit of Assets showing the net value of the estate as Rs.14,86,960/-
Ex.P13 (Series 2 Nos)	Copies of Paper publication effected in English Daily "Virtual Times" dated 01.12.2015 and in Tamil Daily "Malai Sudar" dated 09.12.2015

6. P.W.2 was examined to prove the Will. P.W.2 in his evidence confirmed that the Testator executed his last Will and Testament in a sound and disposing state of mind and that he along with the other witness attested the Will at the same time. The affidavit of P.W.2 was marked as Ex.P14.

7. The petitioners have taken paper publication in "Virtual Times" and "Malai Sudar" on 01.12.2015 and 09.12.2015 respectively. So far no objection has been received from any one.

8. The respondents 2 and 3 have given consent affidavits as per Exs.P10 and P11.

9. In view of the evidence on record, I am satisfied

that the petitioners are entitled to the grant of letters of administration.

10. There shall be an order to issue Letters of Administration with the Will annexed in favour of the petitioners. The petitioners are directed to execute a bond for a sum of Rs.25,000/- in favour of the Assistant Registrar OS-II, High Court, Madras - 600 104, within the statutory period.

In the upshot, I allow the Original Petition.

Sd/K.K.S.J
29.04.2016

//Certified to be a true copy//

Dated this the day of 2017

R.s/30.01.2017

COURT OFFICER

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

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