

O.P.No.35 of 2015**M.M.SUNDRESH, J**

This Petition has been filed under Sections 232 and 276 of the Indian Succession Act, 1925 and Order XXV Rule 5 of the Madras High Court Original Side Rules, seeking the grant of Letters of Administration.

2.Despite service of notice and the name of the respondent having been printed in the cause list, there is no representation on behalf of the respondent.

3.In the petition, it is stated that the first petitioner's mother and the second petitioner's grandmother Rathi Devi, wife of R.Govindarajulu expired on 5.2.2003 at Chennai. The first petitioner is her only son. The parents, husband and daughter of the deceased Rathi Devi pre-deceased her and the first petitioner alone is the legal heir of the said Rathi Devi. The pre-deceased daughter's son has been added as respondent in this petition. The deceased Rathi Devi executed her Last Will and Testament on 22.5.2001 at Chennai in the presence of one M.P.Sankaran and Lakshmi and the same was

registered as document No.53 of 2001 in the office of the Sub Registrar, Periamet, on 22.5.2001. Under the said Will, she has not appointed any executor. The amount of assets which is likely to come to the petitioners' hands does not exceed in the aggregate sum of Rs.19,87,500/- and the net amount of the said assets after deducting all the items, which the petitioners are by law allowed to deduct is only of the value of Rs.19,87,500/-. The petitioners undertake to duly administer the property and credits of the deceased Rathi Devi and in any way concerning her 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 Letters of Administration to the petitioners and also to render to this Court a true account of the said property and credits within one year from the said date. 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.

4.The first 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 computer generated death certificate of late Rathi Devi, who died on 05.02.2003.

Ex.P2 is the original Will dated 22.05.2001 executed by the deceased Rathi Devi.

Ex.P3 is the photocopy of the legal heirship certificate in respect of late Rathi Devi dated 09.03.2011.

Ex.P4 is the photocopy of the sale deed dated 22.10.1998 in favour late G.Rathi Devi.

Ex.P5 is the affidavit of assets showing the net value of the property as Rs.19,87,500/-.

Ex.P6 is the copy of the paper publication effected in one issue of Tamil Daily "Makkal Kural" dated 22.07.2015.

Ex.P7 is the copy of the paper publication effected in one issue of English Daily "Trinity Mirror" dated 22.07.2015.

5. One of the attestors of the Will dated 22.05.2001 viz., M.P.Shankaran was examined as P.W.2. In his evidence, P.W.2 has stated that the Testatrix executed her last Will and Testament on 22.05.2001 in his presence and in the presence of one Lakshmi. At

her request, he subscribed his signature as the first attesting witness along with the said Lakshmi, who attested the Will as the second attesting witness in the presence of Testatrix. He saw the Testatrix subscribing her signature. While executing the Will, the testatrix was in a sound and disposing state of mind, memory and understanding. Ex.P8 is his affidavit in this regard.

6.The respondent examined himself as R.W.1. In his evidence, he has stated that he has no objection in granting letters of administration to the petitioners herein and he has given consent in favour of the petitioners. Ex.R.1 is his consent affidavit.

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

8.Accordingly, this petition is allowed. Issue Letters of Administration in favour of the petitioners. The petitioners are directed to duly administer the properties and credits of the deceased more fully described in the schedule. The petitioners are 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 petitioners are further directed to render true and correct accounts once in a year.

13.07.2016

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