

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

WEDNESDAY, THE 25TH DAY OF OCTOBER 2016

THE HON'BLE MR. JUSTICE M.M.SUNDRESH

O.P.NO.447 OF 2015

In the matter of the Indian
Succession Act XXXIX of 1925
and

In the matter of the last will
and testament of
T.V.Balasubramaniam-Deceased

1.Bharath Raaj B.S.
2.V.B.Sivaraman
No.4, 3rd Street
East Abiramapuram, Mylapore,
Chennai 600 004

...Petitioners

-vs-

1. Mrs.Parvathavarthini,
No.6/48, Arakonam Road,
Nemeli 631 051

2.Mrs.Meenakshi,
Flat No.16, CMV Apartments,
Kellys Lane,
Kilpauk, Chennai 600 010

3.Mrs.Kundavi,
No.22, Panchanga Iyer Street
Uthiramerur,
Pin Code 603 406

...Respondents

Original Petition praying that this Hon'ble Court be

pleased that Letter of Administration with the will annexed
to may be granted to them as they are grand son and
son/legatees under the will of the deceased having effect

limited to the State of Tamil Nadu only limited to the
property mentioned in the Schedule-1 of the Will.

This Original Petition coming on this day before this court for hearing the court made the following order:

This Petition has been filed under Sections 232, 255 and 276 of the Indian Succession Act 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 petitioners as well as the learned counsel appearing for the respondents.

3. In the petition, it is stated that T.V. Balasubramaniam died on 22.02.2005 at No. 4, 3rd Street, East Abiramapuram, Mylapore, Chennai - 4. The deceased was ordinarily residing at the said address. The deceased executed his last Will and Testament dated 07.05.2004 and no executor has been appointed in the Will. The petitioners are the grandson and son of the deceased. The respondents are the daughters of the deceased. The petitioners are the beneficiaries under the said Will. The wife of the deceased also died on 27.08.2013. The amount of assets which is likely to come to the petitioners' hands does not exceed in the aggregate sum of Rs. 1,00,00,000/- 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. 99,80,000/-. The petitioners are the beneficiaries of the Will and they have impleaded the next

to kin and other person interested as respondents. There is no next of kin or other person interested to be impleaded. The respondents have filed their consent affidavits. The petitioners undertake to duly administer the property and credits of the deceased T.V.Balasubramaniam and in any way concerning his 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 and exhibit the same to the Court within six months from the date of grant of Letters of Administration to the petitioners. 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.

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 original death certificate of the first petitioner's paternal grandfather T.V.Balasubramaniam, who died on 22.02.2005.

Ex.P2 is the original unregistered Will dated 07.05.2004 executed by the first petitioner's paternal grandfather T.V.Balasubramaniam.

Ex.P3 is the photocopy of the legal heirship certificate dated 07.09.2011 in respect of the first petitioner's deceased paternal grandfather T.V.Balasubramaniam.

Ex.P4 is the computer generated death certificate of

B.Balambal, wife of T.V.Balasubramaniam and the first petitioner's paternal grandmother, who died on 27.08.2013.

Ex.P5 is the affidavit of assets showing the net value of the property as Rs.99,80,000/-.

Ex.P6 is a copy of paper publication effected in one issue of English Daily News Today dated 07.04.2016.

Ex.P7 is a copy of paper publication effected in one issue of Tamil Daily Malai Murasu dated 15.04.2016.

5.One of the attestors of the Will dated 07.05.2004 viz., M.Venkatachalapathi was examined as P.W.2. In his evidence, P.W.2 has stated that the testator executed his last Will and Testament on 07.05.2004 in his presence and in the presence of one M.Magesh. P.W.2 subscribed his signature as first attesting witness along with M.Magesh, who attested the Will as the second attesting witnesses in the presence of the testator. While executing the Will, the testator was in a sound and disposing state of mind, memory and understanding. Ex.P8 is his affidavit in this regard.

6.The respondents were examined as R.Ws.1, 2 and 3. In their evidence, they have stated that their father executed a Will dated 07.05.2004 and they have no objection for grant of letters of administration to the petitioners. Exs.R1, R2 and R3 are the consent affidavits of the respective respondents.

7.Considering the averments made in the petition and

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.50,000/- (Rupees fifty 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.

sd/.M.M.S.J
25.10.2016

//Certified to be a true copy//

Dated this the day of 2017

R.s/04.01.2017

COURT OFFICER

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

सत्यमेव जयते

WEB COPY