

O.P.No.961 of 2015**K.KALYANASUNDARAM, 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. In this petition, it is stated that one C.Bhavani, wife of Late.Chellappan, who died on 26.10.2000 at K.M.C.Hospital, and she ordinarily resided at New No.9, Old No.6, Sekizhar First Street, M.G.R.Nagar, Chennai-600 078 and possessed of property within the State of Tamil Nadu and within the jurisdiction of this Court. It is further stated that the writing hereunto annexed, now shown to the petitioner and marked with letter 'A' is the last Will and Testament of the said C.Bhavani and was duly executed by the deceased C.Bhavani on 20.08.1986 at Chennai in the presence of witnesses, whose names appear at the foot thereof and thereafter, it was registered in the Office of the Sub Registrar, Virugambakkam, Chennai on 22.08.1986 as Document No.26 of 1986, Book No.III. No executor was appointed under the Will.

3. It is further stated that one of the second attesting witness is B.Sathya Bama, she is none other than mother of the petitioner, who died on 17.02.1998. The third party affidavit of attesting witness is none other than her own brother of the petitioner. The amount of assets which is likely to come to the petitioner's hands does not exceed in the aggregate sum of

Rs.15,00,000/- and the net amount of the said assets, after deducting all the items, which the petitioner is by law allowed to deduct is only of the value of Rs.15,00,000/-. It is further stated that the deceased C.Bhavani who died on 26.10.2000 acquired the property situate at Old No.6, New No.9, House Land No.2384, comprised in Survey No.400, Sekizhar First Street, M.G.R.Nagar, Chennai-600 078 purchased the said property by way of sale deed, dated 29.09.1981 as per the proceedings of the President, Tamil Nadu Slum clearance Board, dated 09.09.1981. Though the intention of the testator was acted upon and the immovable property has been under the possession and enjoyment of the petitioner ever since the demise of C.Bhavani, now the petitioner intends to sell a portion of the property for which purpose, the Letters of Administration with Will annexed is required and consequently, there is a delay in approaching this Court for letters of Administration with Will annexed. The delay is neither willful nor wanton but for the bona-fide reason stated above. The petitioner undertakes to duly administer the property and credits of the deceased C.Bhavani 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 with Will annexed and also to render to this Court a true account of the said property and credits within one year from the said date.

4. The petitioner, who examined herself as P.W.1, reiterated the averments made in the petition and filed the following documents viz., Exs.P1 to P11;

Ex.P1 is the photocopy of Order dated 09.09.1981 in proceedings No.18872/81/A4 passed by Tamil Nadu Slum Clearance Board in favour of deceased Bhavani, who is the Testatrix herein. (marked after comparing and verifying original).

Ex.P2 is the original Will executed by the Testatrix Bhavani on 20.08.1986 registered as Document No.26 of 1986 at SRO, Virugambakkam.

Ex.P3 is the photocopy of sale deed dated 29.09.1981 in favour of deceased Bhavani executed by Tamil Nadu Slum Clearance Board. (marked after comparing and verifying with original)

Ex.P4 is the photocopy of No Objection Certificate, dated 26.05.1992 given by Tamil Nadu Slum Clearance Board in favour of the Testatrix Bhavani. (marked after comparing and verifying with original)

Ex.P5 is the photocopy of death certificate of the Testatrix C.Bhavani, who died on 26.10.2000. (marked after comparing and verifying with original)

Ex.P6 is the computer generated death certificate of her mother B.Sathya Bama, who died on 17.02.1998.

Ex.P7 is the photocopy of her Family Card for the period 2005-2009. (marked after comparing and verifying with original)

Ex.P8 is the photocopy of her Voter Identity Card issued by Election Commission of India. (marked after comparing and verifying with original)

Ex.P9 is the affidavit of assets showing the net value of the estate as Rs.15,00,000/-.

Ex.P10 is the copy of paper publication effected in one issue of English Daily "News Today", dated 14.06.2016.

Ex.P11 is the copy of paper publication effected in one issue of Tamil Daily "Malai Sudar", dated 07.06.2016.

5. One Mr.A.Kannan was examined as P.W.2. In his evidence, P.W.2 stated that the first attesting witness B.Sathya Bama is his mother and he can identify the signature of first attesting witness in the Will, dated 20.08.1986 is that of his mother Mrs.B.Sathya Bama.

6. 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 with will.

7. Accordingly, this petition is allowed. Issue Letters of Administration with Will 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.

09.12.2016

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K.KALYANASUNDARAM, J.,

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