

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29 / 09 / 2016

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

T.O.S.NO.35 OF 2015

1.S.Rajasekaran
2.S.Manoharan

.. Plaintiffs

VS.

R.Baby Chitra

.. Defendant

PRAYER: Petition filed under Sections 232 and 276 of the Indian Succession Act read with Order XXV Rule 5 of Original Side Rules 1956, by the plaintiffs praying for Letters of Administration of the will dated 18.06.2014 annexed of the properties and credits of the deceased to the plaintiffs as sons / beneficiary under the will of the said deceased Late A.Shanmugasundaram.

For Plaintiffs : Mr.V.Manisekaran

For Defendant : Mr.R.Manibharathi

J U D G M E N T

The Original Petition No.782 of 2014 which was originally filed for grant of Letters of Administration of the will dated 18.06.2014 executed by A.Shanmugasundaram was converted into the above Testamentary Original Suit, as the third respondent in the Original Petition had filed caveat.

2. The plaintiffs have stated that one A.Shanmugasundaram is the testator, who died on 22.06.2014, leaving behind him his sons, who are the plaintiffs and the daughters, who are the defendants 1 to 3. His wife Kanakambujam pre-deceased him on 01.08.2007. As per the will, the deceased testator had bequeathed equally to both the plaintiffs, who are the sons, 50% each in respect of both "A" and "B" Schedule properties. Hence, the Original Petition was filed for grant of Letters of Administration to the petitioners / plaintiffs. The respondents / defendants are the daughters of the testator and only the third respondent / third defendant originally filed a caveat and after the conversion of the Original Petition into the above Testamentary Original Suit, had filed written statement opposing the grant of Letters of Administration.

3. After issues were framed, the matter was sent for trial for recording evidence. In the meanwhile, the sole defendant namely, R.Baby Chitra, as D.W.1, in her proof affidavit had given consent as follows:

“In the above said T.O.S.NO.35 of 2015, earlier I had filed my objection but now I hereby give my consent that the WILL dated 18.06.2014 executed by our father A.Shanmuga Sundaram is a genuine and also I hereby give my consent for passing the decree as prayed for by petitioners / plaintiffs herein in T.O.S.No.35 of 2015.”

4. As she had given a consent, there was no cross examination of D.W.1. The plaintiffs also had examined P.W.2, one B.Balagurunathan, who is the attester of the will of the deceased. He has also categorically admitted that the testator had put his Left Thumb Impression after which he had attested the will as a witness to the document.

5. As there was no objection for the issuance of Letters of Administration, the present Testamentary Original Suit is decreed as prayed for and Letters of Administration in respect of the will dated 18.06.2014 executed by Late A.Shanmugasundaram are granted. The plaintiffs shall execute a bond

for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) in favour of the Assistant Registrar (O.S.-II) High Court, Chennai - 600 104. This Court, taking into consideration the nature of relationship between the parties, is not inclined to award costs.

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Index : Yes/No
Internet : Yes/No
TK

LIST OF EXHIBITS MARKED ON THE SIDE OF THE PLAINTIFFS

<i>Sl.No.</i>	<i>Exhibits</i>	<i>Description of documents</i>	<i>Date</i>
1	P-1	The original death certificate of late father A.Shanmugasundaram	04.07.2014
2	P-2	The photocopy of the legal heir certificate of mother Kanagambujam	-
3	P-3	The death certificate of late mother S.Kanagambujam	08.08.2007
4	P-4	The will executed by late A.Shanmugasundaram at his residence at Adambakkam	18.06.2014

PUSHPA SATHYANARAYANA, J.

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