

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(TESTAMENTARY AND INTESTATE JURISDICTION)

DATED, THE 4TH DAY OF OCTOBER 2016

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

O.P.NO.182 OF 2016

In the matter of Indian
Succession Act XXXIX of 1925
and

In the matter of the last Will
and testament of Smt. Kotanirmala
Deceased

Smt. N.Devasena,
W/o.Mr.N.Sundararaju,
No.13/32A, 3rd Cross Street
Minor Trust Puram,
Choolaimedu,
Chennai 600 094

...Petitioner

-vs-

Smt. Lakshmi,
W/o.C.Vijaya Sai,
No.102, Pennunsula Apartments
Simmappuri Hospital Street
Vedaipalayam, Nellore 52
Andhra Pradesh

..Respondent

This Original Petition praying that this Hon'ble Court
be pleased to grant Letter of Administration with the will
annexed may be granted to the petitioner as the one of the
daughter legatee/sole beneficiary under the will of the
said deceased/testatrix 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 Petition has been filed under Sections 232 and

of the High Court Original Side Rules, seeking the grant of Letters of Administration.

2. In the petition, it is stated that the deceased Kota Nirmala died on 24.04.2013 at No.13 (Old No.32A), 3rd Cross Street, Minortrustpuram, Choolaimedu, Chennai - 94 and she was ordinarily residing at the said address. The petitioner and the respondent are sisters viz., daughters of the deceased. The deceased purchased Schedule A and Schedule B properties during her life time and she has paid a sum of Rs.2,00,000/- to the respondent. The deceased executed her last Will and Testament on 27.09.2001, which was registered as Document No.159 of 2001 before the Sub Registrar, Kodambakkam and bequeathed the property to the petitioner. The husband of the deceased was appointed as executor in the Will. The husband of the deceased predeceased her. The amount of assets which is likely to come to the petitioner's hands does not exceed the aggregate sum of Rs.5,00,000/- 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.5,00,000/-. 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. There is no next of kith and kin or other persons interested to be impleaded. The petitioner undertakes to duly administer the property and credits of

the deceased Kota Nirmala 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 petitioner and render true account of the said property and credits within one year from the said date.

3.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 P7;

Ex.P1 is the original registered Will dated 27.09.2001 executed by the petitioner's deceased mother, which was registered as Doc.No.159 of 2001 before the Sub Registrar, Kodambakkam.

Ex.P2 is the computer generated copy of the death certificate of the petitioner's deceased mother K.Nirmala, who died on 24.04.2013.

Ex.P3 is the photocopy of the family member certificate dated 18.01.2009 in respect of the petitioner's deceased father.

Ex.P4 is the photocopy of the registered sale deed dated 18.03.1993 in favour of the petitioner's deceased mother, which was registered as Doc.No.1311 of 1993 before the Sub Registrar, Kodambakkam.

Ex.P5 is the photocopy of the death certificate of the petitioner's deceased father K.Padmanabham, who died on

Ex.P6 is the affidavit of assets showing the net value of the estate for Rs.5,00,000/-.

Ex.P7 series are the copies of paper publication effected in one issue of Tamil daily 'Malai Sudar' dated 16.04.2016 and in one issue of English Daily 'News Today' dated 26.04.2016.

4.One of the attestors of the Will dated 27.09.2001 viz., K.Ananda Rao was examined as P.W.2. In his evidence, P.W.2 has stated that the testatrix executed her last Will and Testament on 27.09.2001 in his presence and in the presence of one K.A.Padmanabham. P.W.2 subscribed his signature as second attesting witness along with K.A.Padmanabham, who attested the Will as the first attesting witness in the presence of the testatrix. While executing the Will, the testatrix was in a sound and disposing state of mind and memory. P.W.2 was also one of the identifying witnesses at the time of registration of the Will, registered as Doc.No.159 of 2001 before the SRO, Kodambakkam. Ex.P8 is his affidavit in this regard.

5.The respondent was examined as R.W.1. In her evidence, R.W.1 has stated that she has no objection in granting letters of administration in respect of the Will Ex.P1 in favour of the petitioner, who is her elder sister. She has also filed her consent affidavit in this regard and Ex.R1 is her consent affidavit.

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.

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

Sd/.M.M.S.J

04.10.2016

//Certified to be a true copy//

Dated this the day of 2017

R.s/10.01.2016

COURT OFFICER

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

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