

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

DATED, THE 23RD DAY OF DECEMBER 2016

THE HON'BLE MR. JUSTICE K.KALYANASUNDARAM

O.P.NO.674 OF 2016

In the matter on Indian
Succession Act, 1925
(Act XXXIX of 1925)
and

In the matter of last will
and Testament and Codicil
to the Last Will of
K.Rukmani deceased

R.Srinivasan,
S/o.Late S.Rajagopalan,
No.5, Krishnaswamy Street
Abhiramapuram,
Chennai 600 018

...Petitioner

This Original Petition praying that this Hon'ble Court
be pleased that Letter of Administration with the Will and
CODICIL annexed may be granted to him being the Paternal
Aunt's Grandson/beneficiary under the Will of the said
deceased having effect through out 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
276 of the Indian Succession Act read with Order XXV Rule 5
of the High Court Original Side Rules, seeking for grant of
Letters of Administration.

2. Heard the learned counsel appearing for the petitioner.

3. In the petition, it is stated that deceased Mrs.K.Rukmani died on 08.02.1990 and she was ordinarily residing at Mela Veethi, 42 Kilavur Village, Tiruvarur Taluk, Tanjavur District. The deceased executed her last Will and Testament dated 26.01.1990 and Codicil to the last Will and Testament executed on 01.02.1990 at No.5, Krishnaswamy Street, Abhiramapuram, Chennai - 600 018 and no executor has been appointed under the said Will and Codicil.

4. The deceased K.Rukmani is the petitioner's paternal aunt. After thorough search, the whereabouts of the attesting witnesses to the Will, the petitioner is unable to procure them. The husband, father and mother of the deceased K.Rukmani had predeceased her. The amount of assets which is likely to come to the petitioner's hands does not exceed in the aggregate sum of Rs.7,20,000/- 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.7,20,000/-. The petitioner undertakes to duly administer the property and credits of the deceased Mrs.K.Rukmani 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. 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 properties and credits.

5. The petitioner examined himself as P.W.1, reiterated the averments made in the petition and filed the following documents viz., Exs.P1 to P8. Ex.P1 is the original death certificate of paternal aunt K.Rukmani who died on 08.02.1990. Ex.P2 is the original unregistered Will dated 26.01.1990 executed by deceased K.Rukmani. Ex.P3 is the original Codicil dated 01.02.1990 executed by deceased K.Rukmani. Ex.P4 is the photocopy of the sale deed dated 26.08.1964 executed by Mrs.A.Meenakshi in favour of deceased K.Rukmani. Ex.P5 is the original certificate dated 09.07.1990 given by the Village Administrative Officer, Kilvellore. Ex.P6 is the affidavit of assets showing the net value of the property as Rs.7,20,000/-. Ex.P7 is a copy of paper publication effected in one issue of Tamil Daily "Makkal Kural" dated 23.10.2016. Ex.P8 is a copy of paper publication effected in one issue of English Daily "Trinity Mirror" dated 01.11.2016. He has

further stated in his evidence that he has not filed any other petition before any other Court seeking the same relief.

6. One Mr.K.V.Krishnan S/o. Late S.Vedantham was examined as P.W.2. In his evidence, P.W.2 has stated that he is a family friend of the deceased K.Rukmani and that the testatrix had executed a will prior to her executing a Codicil dated 01.02.1990, Ex.P3. In his evidence, P.W.2 has stated that he subscribed his signature as first attesting witness to the Codicil along with one Mr.R.Sriram who attested the Codicil as the second attesting witness in the presence of the Testatrix. Ex.P19 is his affidavit in this regard.

7. 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.

8. 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
23.12.2016

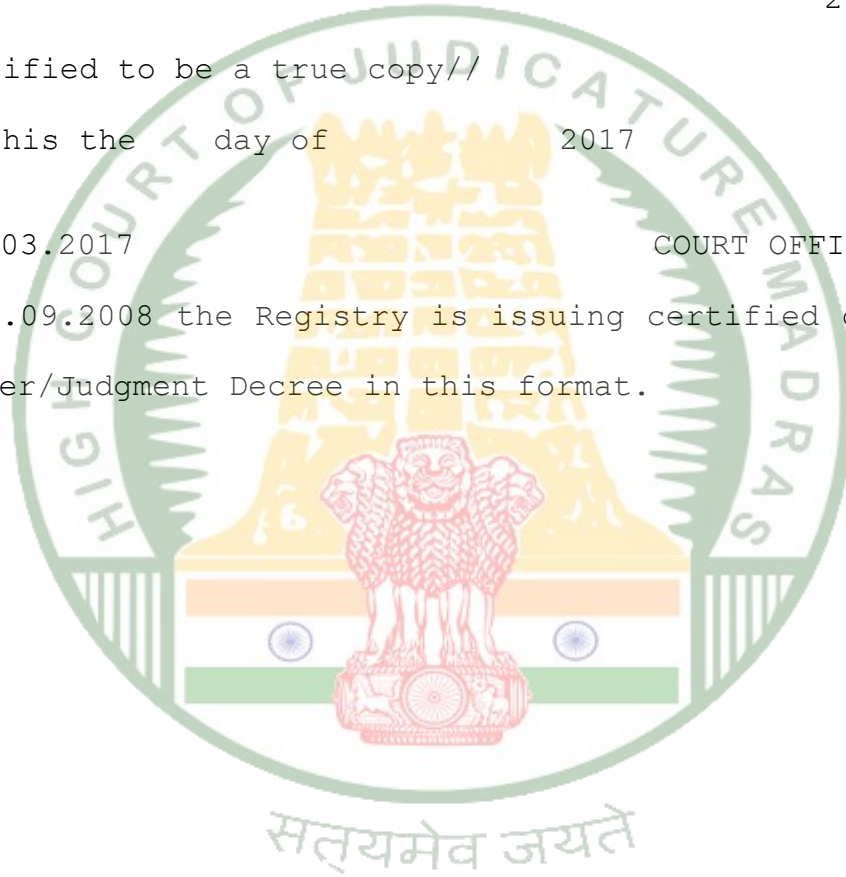
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Dated this the day of 2017

R.s/08.03.2017

COURT OFFICER

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