

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2016

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

T.O.S.No.54 of 2013

1.Ramila James
2.S.Vidya Selvarathinam

... Plaintiffs

Versus

1.Elizabeth Sheela
2.Patrick Purushothama Rao

... Defendants

The suit is filed under Sections 219 and 278 of the Indian Succession Act XXXIX of 1925 for the grant of Letters of Administration to the property and credits of the deceased to have effect limited to the State of Tamil Nadu may be granted to them.

For Plaintiff : Mr.A.R.Suresh

For Defendants : No Appearance

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JUDGMENT

The present original petition has been filed under Sections 219 and 218 of Indian Succession Act praying for the issuance of Letters of Administration, with regard to estate of late A.C.S.Chellappa. The petitioners are the sisters of late A.C.S.Chellappa and they would aver that his parents had pre-deceased him and his wife viz., Vijayabai Chellappa died intestate on 04.01.2008 leaving behind her husband A.C.S.Chellappa alone and they got no issues out of the wedlock.

2. It is further averred that the house property bearing Old Door No.28, New No.16/68, Perianna Maistry Street, Periamet, Vepery, Chennai - 600 003 admeasuring to an extent of 1728 sq. ft. of land and building was originally purchased by the wife of A.C.S.Chellappa viz., Vijayabai Chellappa through a registered sale deed, bearing Document No.1083/1949, dated 04.06.1949, registered in the office of the Sub Registrar of West Madras and she died intestate on 04.01.2008 leaving behind her husband A.C.S.Chellappa and as per Indian Succession Act, he has acquired right, title and interest over the above said immovable property by succession and subsequently, he also died intestate on 09.01.2010 leaving behind his sisters viz., the plaintiffs as his only surviving legal heirs. Thus it is the claim of the petitioner that since

A.C.S.Chellappa, out of wedlock with Vijayabai Chellappa did not get any issues and on account of death of Vijayabai Chellappa, her husband viz., A.C.S.Chellappa is succeeded to the estate and he also died intestate and the plaintiffs are the sole surviving legal heirs (Sisters), they are entitled to get Letters of Administration.

3. Though the defendants were served and M/s.L.Jayakumar and Associates were appearing for them, they did not file their objections/counter and therefore, they were called absent and set exparte on 16.02.2015.

4. The first plaintiff on her behalf and also on behalf of her sister viz., 2nd plaintiff has filed proof affidavit in lieu of chief examination and marked Exs.P1 to P5. After recording the evidence, the matter was listed on 07.01.2016 and on that day, the learned counsel appearing for the defendants prays for short accommodation as he has already filed an application for setting aside the exparte order and therefore, this Court has adjourned the matter.

5. When the matter is called today, there is no representation on behalf of the defendants and it has been passed over and called at 2.40 p.m. and once again, there is no representation on behalf of the defendants. A perusal

of the notes paper would indicate that though the respondents have filed D.Nos.13515, 13516 and 38107 of 2014, the said applications were returned on 18.03.2015 for carrying out certain defects and the defects pointed out by the Registry have not been rectified and not re-presented.

6. The learned counsel appearing for the plaintiffs has drawn the attention of this Court to the proof affidavit as well as Exs.P1 to P5 and would submit that as per the sale deed marked as Ex.P4, the wife of A.C.S.Chellappa became the owner of the property and it has also reflected in the Land Register marked as Ex.P5 and there is no dispute to the fact that A.C.S.Chellappa was her husband and since his wife died intestate, he has succeeded to the property owned by his wife and he also died intestate and death certificate of both of them were also marked as Exs.P1 and P2 and as per the legal heir certificate of Mrs.Vijayabai Chellappa, marked as Ex.P3, her husband alone was the sole surviving legal heir and in the light of the said undisputed fact, there cannot be any impediment on the part of this Court to order for grant of Letters of Administration to the plaintiffs and prays for appropriate orders.

7. This Court has considered the submissions of the learned counsel appearing for the plaintiffs and also perused the petition, proof affidavit as well as the typed set of documents.

8. As per the legal heir certificate marked as Ex.P3 issued by the Tahsildar, Mrs.Vijayabai Chellappa died on 04.01.2008 and Mr.A.C.S.Chellappa was the sole surviving legal heir. Vijayabai Chellappa while was alive, has purchased the above mentioned property under Ex.P4, registered sale deed dated 04.06.1949 and the said ownership has also been reflected under Ex.P5, Land Register. It is not in serious dispute that the plaintiffs are the blood sisters of late A.C.S.Chellappa and since he died intestate, they are entitled to get Letters of Administration.

9. In the result, this Testamentary Original Suit is allowed granting Letters of Administration without the Will annexed in favour of the plaintiffs. Both the plaintiffs are directed to execute a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) in favour of the Assistant Registrar II (OS), High Court of Madras, Chennai - 600 104. No costs.

08.03.2016

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List of Witnesses:

PW1 : Rameela James

List of Exhibits:

<i>Exhibits</i>	<i>Description of Documents</i>	<i>Date</i>
Ex.P1	The original death certificate of deceased A.C.S.Chellappa	09.01.2010
Ex.P2	The original death certificate of Mrs.Vijayabai	04.01.2008
Ex.P3	The photocopy of legal heir certificate of deceased Vijayabai	02.02.2009
Ex.P4	The photocopy of the sale deed dated 04.06.1949 in the name of Vijayabai	05.04.2013
Ex.P5	The photocopy of the certificate of land register	--

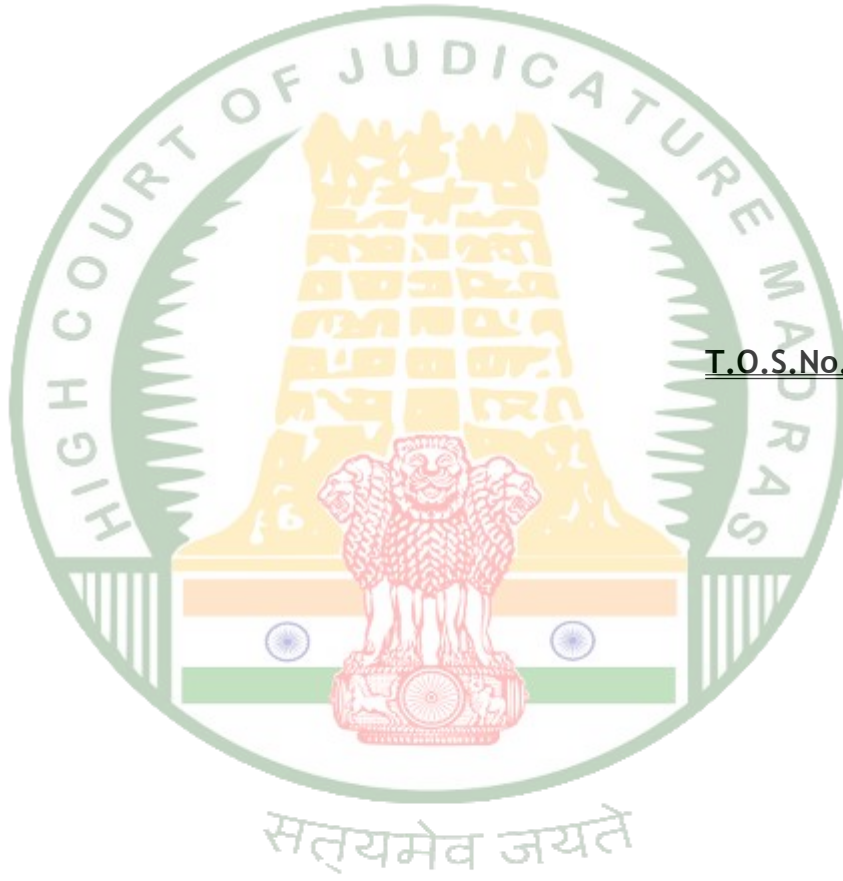
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M.SATHYANARAYANAN, J.

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