

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(TESTAMENTARY AND INTESTATE JURISDICTION)

TUESDAY, THE 25TH DAY OF JULY 2017

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

O.P.No.167 of 2017

In the matter of Indian
Succession Act XXXIX of 1925

And

In the matter of Last Will and
testament of S.V.R.Chander
(deceased)

N.Kannan,
S/o.Late Mr.Narayanaswamy,
H86/G3, Seaview Apartments,
1st Seaward Road, Valmiki Nagar,
Thiruanmiyur,
Chennai-600 041.

...Petitioner.

1.Ms.S.Pattammal,
D/o.Late V.Subramania Iyer,
26/45, 1st Cross Road, Kasturba Nagar,
Adyar,
Chennai-600 020.

2.Ms.S.Rukmani,
D/o.Late V.Subramania Iyer,
26/45, 1st Cross Road, Kasturba Nagar,
Adyar,
Chennai-600 020.

...Respondents

Original Petition praying that this Hon'ble Court be
pleased to that Letters of Administration with the will
annexed may be granted to him as the Beneficiary under the
will of the said deceased having effect throughout the
State of Tamil Nadu, pass such further or other orders.

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 read with Section 276 of the Indian Succession Act read with Order XXV Rule 5 of the High Court Original Side Rules, seeking the grant of Letters of Administration.

2.Heard the learned counsel appearing for the petitioner and the learned counsel for the respondents.

3.In the petition, it is stated that the one Sri S.V.R.Chander died on 05.09.2014 at Kauvery Hospital, Royapettah, Chennai, and he was originally residing at No.26/45, 1st Cross Road, Kasturba Nagar, Adyar, Chennai 600 020. The deceased executed his last Will on 25.06.2014 and registered as Document No.44 of 2014 in Book III at the Sub Registrar Office Joint-1, Chennai South in the presence of witness. The parents of the deceased predeceased him. The deceased died as a Bachelor and left Ms.Pattammal and Ms.Rukmani, his spinster sisters, who are the respondents herein, surviving him as his next-of-kin. The petitioner is not related to the deceased, but his father is the close friend of the deceased. The petitioner was under the care of the deceased for the last more than 25 years until the death of the deceased and he has also performed his last rights like a son. No executor is

appointed under the Will. The amount of assets which is likely to come to the petitioner's hands does not exceed in the aggregate sum of Rs.10,00,000/- 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.10,00,000/-. The petitioner undertakes to duly administer the property and credits of the deceased S.V.R.Chander and in any way concerning his Will by paying first his 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 also to render to this Court a true account of the said property and credits within one year from the said date. 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. The respondents have also given their consent affidavits expressing no objection for the grant of letters of administration in favour of the petitioner.

4.The petitioner, who examined himself 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 sale deed dated 06.05.1967

executed by Bakthavatsalam Nagar Co-operative House Construction Society Ltd, in favour of Ms.S.Pattammal

Ex.P2 is the original Will executed by the deceased S.V.R.Chander on 25.06.2014 registered as Document No.44 of 2014 at SRO, Madras South.

Ex.P3 is the photocopy of extract from Town Survey Land Register dated 10.04.2006 in C.A.No.432 of 2005 in favour of Ms.S.Pattammal.

Ex.P4 is the photocopy of the Settlement Deed dated 09.10.2013 executed by Ms.S.Patammal in favoaur of deceased S.V.K.Chander.

Ex.P5 is the photocopy of property Tax name transfer order of Corporation of Chennai in favour of deceased S.V.K.Chander. dated 10.03.2014.

Ex.P6 is the photocopy of Water Tax Assessment Card in Chennai Metro Water Supply and Sewerage Board showing mutation of records in favour of deceased S.V.K.Chander.

Ex.P7 is the computer generated death certificate of the deceased S.V.K.Chander, who died on 05.09.2014.

Ex.P8 is the affidavit of assets showing the net value of property as Rs.10,00,000/-

Ex.P9 is the consent affidavit given by the first respondent stating that she has no objection in grant of probate in favour of the petitioner.

Ex.P10 is the consent affidavit given by the 2nd respondent stating that she has no objection in grant of probate in favour of the petitioner.

Ex.P11 series (2 Nos) are the copies of paper publication effected in one issue of English daily "Trinity Mirror" dated 04.05.2017, and one issue of Tamil daily "Makkal Kural" dated 27.04.2017.

5.One of the attestors of the Will dated 25.06.2014 viz., D.Ramasubramanian, was examined as P.W.2. In his evidence, P.W.2 has stated that the testator executed his last Will and Testament on 25.06.2014 in his presence and in the presence of one K.Ramesh. P.W.2 subscribed his signature as second attesting witness along with K.Ramesh, who attested the Will as the first attesting witness in the presence of the testator. While executing the Will, the testator was in a sound and disposing state of mind, understanding, good health and memory. Ex.P12 is his affidavit in this regard.

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/-C.V.K.J

25.07.2017

//Certified to be a true copy//

Dated this the day of 2017.

EM/28.07.2017

COURT OFFICER

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