

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(TESTAMENTARY AND INTESTATE JURISDICTION)

THURSDAY, THE 21ST DAY OF DECEMBER 2017

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

O.P. No.286 of 2017

In the matter of the Indian
Succession Act, XXXIX OF 1925

And

In the matter of Last Will and
Testatement of

M.Perumal - Deceased

1.D.Lakshmi Priya

2.D.Guru Vignesh

Both residing at:
No.23/11, River School Compound,
Urur, Adayar,
Chennai - 600 020.

: Petitioners

Versus

1) P.Dhanasekaran

2) P.Venkatesan

3) J.Chitra

All residing at:
No.23/11, River School Compound,
Urur, Adayar,
Chennai - 600 020.

: Respondents

Original Petition prays that Letters of Administration with Will annexed may be granted to the petitioners as the grand daughter and grand son / beneficiaries under the Will of the said deceased having effect throughout the state of TamilNadu.

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 the grant of Letters of Administration.

2. In the petition, it is stated that the deceased M.Perumal, died on 02.11.2014 at No.23/11, River School Compound, Urur, Adayar, Chennai - 600 020, and she was ordinarily residing at the said address. The deceased possessed the property within the Jurisdiction of this Court. The 1st petitioner is the daughter of late C.A.Davendran, granddaughter of deceased. The 2nd petitioner is the son of late C.A.Davendran, grandson of deceased. The 1st and 2nd respondents are the sons of the deceased and the 3rd respondent is the daughter of the deceased. That the writing hereunto annexed and marked "A" is the last Will and Testament of the deceased M.Perumal. The amount of the assets which is likely to come into the hands of the Petitioners does not exceed in aggregate the sum of Rs.4,00,000/-

and the net amount of the said assets after deducting all items which the petitioners by law allowed to deduct is of the value of Rs.4,00,000/-. The petitioners stated that deceased executed the Will and allotted the area to his legal heirs are as follows:-

- a) The area marked as "A" in the sketch annexed is allotted to 1st respondent totalling 280 sq.ft.
- b) The area marked as "B" in the sketch annexed is allotted to 2nd respondent totalling 280 sq.ft.
- c) The area marked as "C" in the sketch annexed is allotted to 3rd respondent totalling 280 sq.ft.
- d) The area marked as "D" in the sketch annexed is allotted to the petitioners totalling 280 sq.ft.
- e) The area marked as "E" in the sketch annexed is common passage left for use of all the beneficiaries totalling 80 sq.ft.,

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 their property. There is no next of kith and kin or other persons interested to be impleaded. The petitioners undertake to duly administer the property and credits of the deceased M.Perumal and in any way concerning their 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 petitioners and render true account of the said property and credits within one year from the said date.

3. The 1st petitioner, who examined himself as P.W.1, reiterated the averments made in the petition and filed the following documents viz., Exs.P1 to P12;

Ex.P1 is the original registered gift deed dated 31.08.1981 in favour of the deceased M.Perumal.

Ex.P2 is the computer generated copy of the death certificate of P.W.1's mother D.Sundari, who died on 15.08.2003.

Ex.P3 is the computer generated copy of the death certificate of P.W.1's father C.A.Devandran, who died on 14.06.2008.

Ex.P4 is the original registered Will and Testament dated 30.10.2014 executed by P.W.1's maternal grand father M.Perumal which was registered as Doc.No.64/2014 on the file of the Sub-Registrar Adyar. The Will has been attested by two attesting witnesses namely 1. K.Kumaragauru, 2. M.Krishnakumar.

Ex.P5 is the photocopy of the Legal Heirship Certificate dated 08.08.2008 in respect of P.W.1's deceased mother.

Ex.P6 is the photocopy of the Legal Heirship Certificate dated 08.08.2008 in respect of P.W.1's deceased father.

Ex.P7 is the computer generated copy of the death certificate of P.W.1's grand mother Saroja, who died on 18.05.2013.

Ex.P8 is the computer generated copy of the death certificate of P.W.1's grand father M.Perumal, who died on 02.11.2014.

Ex.P9 is the photocopy of the Legal Heirship Certificate dated 11.12.2014 in respect of P.W.1's grand father M.Perumal.

Ex.P10 is the affidavit of assets showing the net value of the property at Rs.4,00,000/-.

Ex.P11 is a copy of paper publication effected in one issue of Tamil daily "Makkal Kural" dated 22.01.2017.

Ex.P12 is a copy of paper publication effected in one issue of English Daily "Trinity Mirror" dated 29.10.2017.

Exp.P13 is the affidavit of the attesting witness K.kumaraguru.

4. The first attesting witness was examined as P.W.2. In his evidence, he has stated that the Testator executed her last will and Testament on 30.10.2014 in his presence and in the presence of Mr.M.Krishnakumar. At the request of the Testator, P.W.2 subscribed his signature as the first attesting witness along with Mr.M.Krishnakumar, who attested the Will as the 2nd attesting witness respectively in the presence of Testator. While executing the Will, the Testator was in a sound and disposing state of mind, memory and understanding. Ex.P.13 is the consent affidavit of P.W.2.

5. Considering the averments made in the petition and on perusing the materials available on record, I am satisfied that the

petitioners are entitled to the issuance of Letters of Administration.

6. Accordingly, this petition is allowed. Issue Letters of Administration in favour of the petitioners. The petitioners are directed to duly administer the properties and credits of the deceased more fully described in the schedule. The petitioners are 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 petitioners are further directed to render true and correct accounts once in a year.

Sd./- C.V.K.J.

21.12.2017

//Certified to be true copy//

Dated at Madras this the th day of 2018.

COURT OFFICER (O.S.)

TPY/24.1.2018

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