

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

MONDAY, THE 11TH DAY OF DECEMBER 2017

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

O.P. No.549 of 2017

In the matter of Indian
Succession Act, XXXIX OF 1925

And

In the matter of estate of
M.Periyasamy (deceased) intestate.

M.Rajammal

Aged about 80 years

W/o.Late V.P.Muthukrishnan

Old No.59, New No.74, Bazulla Road

T.Nagar, Chennai - 600 017.

: Petitioner

Versus

1)M.Meenakshi

Aged about 60 years

W/o.S.Ponnusamy

Old No.59, New No.74, Bazulla Road

T.Nagar, Chennai - 600 017.

2)P.Surendran

Aged about 31 years

S/o.S.Ponnusamy

Old No.59, New No.74, Bazulla Road

T.Nagar, Chennai - 600 017.

3)M.Jothilakshmi

Aged about 52 years

W/o.P.Angannan

Old No.T83A, New No.13,

29th Cross Street

Kalakshetra Colony

Besant Nagar, Chennai - 600 090.

4)A.Dheepika

Aged about 26 years

D/o.P.Angannan

Old No.T83A, New No.13,

29th Cross Street,

Kalakshetra Colony

Basant Nagar, Chennai - 600 090.

: Respondents

Original Petition praying that this Hon'ble Court be pleased to

a) to issue a Certificate of Succession to the Petitioner, who is the sole surviving legal heir of the deceased M.Periyasamy to the share of his property which measures an extent of 253.5 square feet in the undivided share in land and 422.5 square feet in the super built up area comprising situated in the 4th Floor bearing Flat Number 4A, in the property having address at Old No.59, New No.74, Bazulla Road, T.Nagar, Chennai - 600 017.

b) that Letters of Administration to the property and credits of deceased to have effect throughout the whole of the union of India may be granted to her.

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 218 and 278 of the Indian Succession Act, 1925, 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.

3. In the petition, it is stated that M.Periyasamy, died on 08.02.2017, at Aswini Soundariya Nursing Home, No.24, Kasthuri Rangan Road, Teynampet, Chennai-600 018 and he was ordinarily residing at Old No.59, New No.74, Bazulla Road, T.Nagar, Chennai - 600 017. The deceased died intestate and though due and diligent search has been made for a Will, none has been found. The deceased was a bachelor in his life time and his mother/petitioner, Mrs.Rajammal is the sole legal heir of the deceased M.Periyasamy. The father of the deceased M.Periyasamy predeceased him on 21.06.1982.

4. The petitioner alongwith the since deceased M.Periyasamy and the respondent 1 to 4 herein had entered into a Joint Development cum construction venture agreement with URC construction Pvt. Ltd. On 27.11.2012 to develop the property which is situated at Old Door No.59, New Door No.74, Bazulla Road, T.Nagar, Chennai-600 017. The terms of the joint venture agreement is that the share of the owners in the land will be 75% and the remaining 25% of the land shall be the share allotted to the developer. It is further stated that pursuant to the Joint Development Agreement, the property was developed as agreed by URC Construction Private Limited and the share of the owners in the superstructure was also allotted to the

petitioner and the respondents including the since deceased M.Periyasamy and the owners have also taken a joint possession of the superstructure which was constructed thereon. Further the owners, viz., the petitioner, respondents and the deceased M.Periyasamy had even executed a Power of Attorney, appointing URC Construction Private Limited as their agent to deal with 25% of the share allotted to the developer including the right to sell the same alongwith the 25% super-built up area share of the developer. The said share of the super-built up area of the developer comprised in the fourth floor was two housing units. Accordingly, 1/4th share in the said housing unit, which was allotted to the developer URC Construction Private Limited, namely an extent of 422.5 square feet in the built up area of Flat No.4@ and 253.5 square feet of undivided share in the land out of the total extent of 1800 square feet allotted to the developer, now has to be dealt with and transferred by his sole surviving legal heir, namely his mother Mrs.Rajammal, who is the sole claimant, the petitioner herein, to the developer or to their nominees.

5. The petitioner herein claims administration of the deceased M.Periyasamy's entire share of the property, estate, effects and

credits as hers. The amount of the assets which are likely to come to the petitioner's hands does not exceed in the aggregate sum of Rs.46,89,750/- (Rupees Forty Six Lakhs Eighty Nine Thousand Seven Hundred and Fifty only) and the net amount of the said assets after deducting all items, which the petitioner is by law allowed to deduct is only of the value of Rs.46,89,750/- (Rupees Forty Six Lakhs Eighty Nine Thousand Seven Hundred and Fifty only). The petitioner undertake to duly administer the property and credits of the deceased M.Periyasamy 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 render 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 Letters of Administration.

6. 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 P15:

Ex.P1 is the photocopy of death certificate of her husband V.P.Muthukrishnan Gounder, who died on 21.06.1982.

Ex.P2 is the photocopy of partition deed dated 09.08.1983 among our family members in respect of the property mentioned in the petition.

Ex.P3 is the photocopy of development agreement dated 27.11.2012 in respect of the property mentioned in the petition.

Ex.P4 is the photocopy of planning permit issued by CMDA dated 18.12.2012 in respect of the property mentioned in the petition.

Ex.P5 is the photocopy of Building permission by Corporation of Chennai dated 18.12.2012 in respect of the property mentioned in the petition.

Ex.P6 is the photocopy of approved plan in respect of the property mentioned in the petition.

Ex.P7 is the photocopy of general power of attorney dated 14.10.2015 registered as Doc.No.2599/2015 at SRO, T.Nagar.

Ex.P8 is the photocopy of completion certificate issued by CMDA dated 20.11.2015 in respect of the property mentioned in the petition.

Ex.P9 is the photocopy of sale deed in favour of Mrs.Latha Ganesh dated 18.11.2016 registered as Doc.No.2805/2016 at SRO, T.Nagar.

Ex.P10 is the photocopy of Encumbrance Certificate dated 03.02.2017 for the period 01.01.2016 to 02.02.2017 in respect of the property mentioned in the petition.

Ex.P11 is the computer generated death certificate of the deceased M.Periyasamy, who died on 08.02.2017.

Ex.P12 is the photocopy of legal heirship certificate dated 02.03.2017 in respect of deceased N.Periyasamy.

Ex.P13 is the consent affidavit filed by the respondents stating that they have no objection in grant of letter of administration in my favour.

Ex.P14 is the affidavit of assets showing the net value of estate as Rs.46,89,750/-.

Ex.P15 Series (2 Nos) are the copies of the paper publication effected in one issue of English daily "Virtual Times" dated 08.09.2017 and one issue of Tamil daily "Dhina Boomi" dated 16.09.2017.

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./- C.V.K.J.

11.12.2017

//Certified to be true copy//

Dated at Madras this the th day of 2018.

COURT OFFICER (O.S.)

TPY/12.1.2018

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