

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 26.10.2017

PRONOUNCED ON: 03.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

TOS.No.18 of 2017

A.V.Vardamanan

Plaintiff

Vs

1. Padmajothi
2. V.Saroja
3. Kousalya

Defendants

Prayer:- This Testamentary Original Suit is filed under Sections 232 and 276 of the Indian Succession Act read with Order XXV Rule 5 of the Original Side Rules to grant Letters of Administration.

For Plaintiff : Mr.S.Mahendran

For Defendants : Mr.S.Thiruvengadam

JUDGEMENT

This Testamentary Original Suit has been filed, under Sections 232 and 276 of the Indian Succession Act, to grant Letters of Administration, with respect to the last Will and Testament of D.Aparajitham Nainar, who had died on 24.1.2004, leaving behind, a Will dated 7.9.1998.

2. The Petitioner and the Respondents are the legal representatives of the deceased. The Petitioner is the grand son. The Respondents are the daughter, daughter in law and grand daughter. The Will was executed in the presence of the witnesses. One of the attesting witnesses, R.Devarajan had

died. The other attesting witness K.Narayanan has filed an affidavit, proving the signature of the deceased D.Aparajitham Nainar.

3. The TOS was originally filed as OP.No.285 of 2017. Since the Respondents filed their objections, OP.No.285 of 2017 had been converted into TOS.No.18 of 2017. The Petitioner was also examined as PW.1 and he marked Ex.P1 to Ex.P18. Ex.P1 is the Will. Ex.P2 to Ex.P4 are the documents relating to the property. The other documents are the revenue records and death certificate and legal heirship certificates.

4. Pending the proceedings, the parties had entered into a compromise, which was arrived at with the help of Mediation and Conciliation Center. Accordingly, a Memo of Compromise dated 15.09.2017 had also been entered into between the parties. This had been signed by both the learned counsel for the Defendants and the Plaintiff and also by the parties. According to the Memo of Compromise, it had been recorded as follows:-

1. The Defendant shall enjoy the property which is standing in her name as per the measurement mentioned in the patta.
2. The Plaintiff agrees not to disturb the common mother wall and the structural stability of the said inner wall.
3. Building structure not to be disturbed in case of any alteration or construction.
4. The Plaintiff agrees that in the event of selling his property he should first offer the same to the Respondent at the prevailing market price and the said intention should be in writing shall be sent to residential address of the Defendant by registered post. In a similar was if the Defendant the Respondent intends to sell her property, she should offer the same to the Plaintiff first at the prevailing market price and the said intention should be expressed in writing and shall be sent to the residential address of the Plaintiff by registered post. In view of the above compromise the Defendant

expresses her no objection for grant of Letters of Administration to the Petitioner in respect of the Will dated 7.9.1998 executed by D.Aparajitham Nainar.

5. Since even in the Memo of Compromise, the Defendants have not raised any objection, this TOS is decreed as prayed for. Issue Letters of Administration in favour of the Plaintiff. The Plaintiff is directed to duly administer the properties and credits of the deceased. The Plaintiff is directed to execute a security bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) in favour of the Assistant Registrar (OS.II), High Court, Madras. The Plaintiff is further directed to render true and correct accounts once in a year. The Memo of Compromise shall form part of the decree

03.11.2017

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Srcm

To:

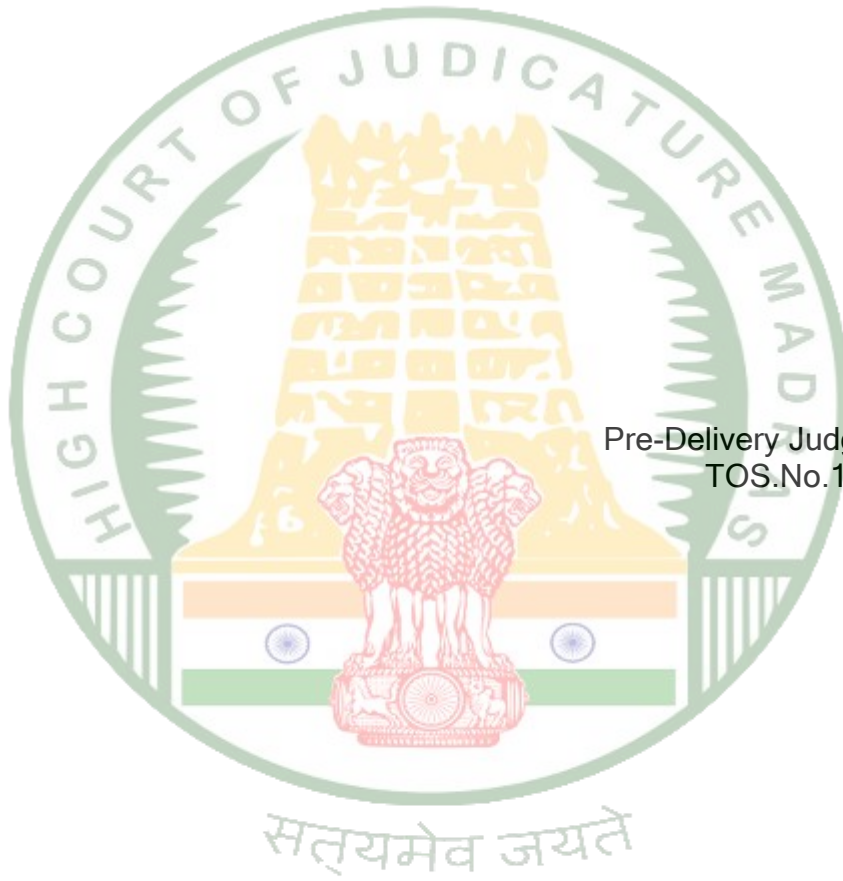
1. The Record Keeper, VR Section, High Court, Madras

सत्यमेव जयते

WEB COPY

C.V.KARTHIKEYAN, J.

Srcm



Pre-Delivery Judgement in
TOS.No.18 of 2017

WEB COPY

03.11.2017