

O.P.No.849 of 2015**V.PARTHIBAN, J.**

This Petition has been filed under Sections 232 and 276 of the Indian Succession Act read with Order XXV Rule 5 of Original Side Rules, seeking the grant of Letters of Administration.

2. In the petition, it is stated that the petitioners' father K.Vythilingam died on 30.09.1998 at Ranjith Hospital, Chennai 600 010 and he was ordinarily residing at No.57, Asperan Garden, 1st street, Kilpauk, Chennai - 600 010, and his wife and parents pre-deceased him. The deceased at the time of his death, left behind the following persons as his legal heirs, viz., Vijaya Reddy and Dr. Vijay Reddy @ Vijay Subba Reddy (petitioners herein) and V.Manivannan and Dr.Meena Narayanan @ Meena Vythilingam (respondents herein). The deceased purchased the A-Schedule property by way of Deed of Sale, dated 25.04.1984, vide Document No.2696 of 1984, registered on the file of Tambaram, SRO and B-Schedule property by way of Deed of Sale, dated 15.02.1988, vide Document No.170 of 1988, registered on the file of Jollarpet, SRO.

3. It is the further case of the petitioners that the deceased executed a Will and Testament at Chennai on 26.05.1998 in favour of the petitioners herein, in the presence of witnesses and no Executor has been appointed under the said Will and the petitioners are the beneficiaries under the Will.

The amount of assets which are likely to come into the petitioner hands does not exceed in the aggregate sum of Rs.63,94,000/- and the net amount of the said assets, after deducting all items, which the petitioners are by law allowed to deduct is of the value of Rs.63,94,000/-. It is further alleged that the 2nd petitioner was allotted his interest and put to absolute enjoyment and possession of the petition properties and after the 2nd petitioner's death, if there is any residue in the petition properties, it can be enjoyed by the 1st petitioner herein as per the said Will. The 1st respondent has no objection in granting the Letters of Administration in favour of the 2nd petitioner. No application has been made at any District Court or Delegate or to any other High Court for the grant of Probate or Letters of Administration of any Will of the said deceased with or without the Will.

4. The petitioner undertook to duly administer the property and credits of the deceased and in any way concerning his Will by paying first his debts and then the legacies thereon bequeathed so far as the assets will extend and to make a full and true inventory thereof and to exhibit the same in this Court, within six months from the date of grant of Letters of Administration to the petitioners and also to render to this Court a true account of the said property and credits with in one year from the said date.

5. One Mr. N. Chelladurai, Power of Attorney of the petitioners 1 & 2 was examined as P.W.1 and marked Exs.P1 to P11 viz.,

- a) Ex.P1 is the photocopy of the General Power of Attorney dated 18.04.2015 executed by the petitioners herein appointing him as their power agent.
- b) Ex.P2 is the computer generated death certificate of the petitioners' father K.Vythilingam, who died on 30.09.1998.
- c) Ex.P3 is the original unregistered last Will and Testament dated 26.05.1998 executed by the deceased, which was attested by 2 attesting witnesses, viz., P.Natarajan and Sujatha.
- d) Ex.P4 is the Computer generated death certificate of the petitioner's mother V.Suguna, who died on 12.02.1998.
- e) Ex.P5 is the photocopy of the legal heirship certificate dated 19.09.2014 in respect of the deceased K.Vythilingam.
- f) Ex.P6 is the Computer generated guideline value in respect of survey No.284, Mannivakkam.
- g) Ex.P7 is the computer generated guideline value for the survey No.113, Elagiri Village.
- h) Ex.P8 is the consent affidavit given by the 2nd respondent Dr.Meena Narayan @ Meena Vythilingam stating that she has no objection in granting Letters of Administration in favour of the petitioners in respect of the Will Ex.P3.
- i) Ex.P9 is the copy of paper publication effected in one issue of Tamil Daily "Thina Suriyan" dated 25.10.2016.
- j) Ex.P10 is the copy of paper publication effected in one issue of English Daily "News Today" dated 04.11.2016.
- k) Ex.P11 is the affidavit of assets showing the Net Value of the property as Rs.63,94,000/-.

6. One of the attestors of the Will, P.Natarajan was examined as PW2. In his evidence, PW2 has stated that the testator executed his last Will and Testament, Ex.P3 in his presence and in the presence of one Sujatha. At his

request, he subscribed his signature as the 1st attesting witness along with Sujatha, who attested the Will as 2nd attesting witness, in the presence of the testator. While executing the Will, the testator was in a sound and disposing state of mind, memory and understanding. Ex.P12 is his affidavit in this regard.

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 2nd petitioner. The second petitioner is directed to duly administer the properties and credits of the deceased more fully described in the schedule. The second 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 second petitioner is further directed to render true and correct accounts once a year.

22.06.2017

pvs

V.PARTHIBAN, J.

pvs

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