

O.P.No.882 of 2007**K.KALYANASUNDARAM, J.,**

This Petition has been filed under Sections 232 and 276 of the Indian Succession Act, 1925 for grant of Letters of Administration with Will annexed r/w Order XXV Rule 5 of the Madras High Court Original Side Rules, seeking the grant of Letters of Administration.

2. Despite service of notice and the names of the respondents having been printed in the cause list, there is no representation on behalf of the respondents.

3. In the petition, it is stated that the deceased T.Shanmugam died on 09.10.2003 at his ordinary residence at No.163, Sharma Nagar Quarters, Vysarpadi, Chennai-600 039. The petitioner is the son of the deceased. The first respondent is the wife of the deceased and the second and third respondents are the daughters of the deceased and the fourth respondent is the second son of the deceased. The Will of the deceased was executed on 13.08.2003. The deceased has not appointed any executor under the Will and the petitioner is one of the legatees.

4. The amount of assets which is likely to come to the petitioner's hands does not exceed in the aggregate sum of Rs.1,50,000/- 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.1,40,000/-. The petitioner undertake to duly administer the property and credits of the deceased T.Shanmugam 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.

5.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 P7;

Ex.P1 is the original death certificate of late T.Shanmugam, who died on 09.10.2003.

Ex.P2 is the original registered Will dated 13.08.2003 executed by the deceased, which was registered as Doc.No.81 of 2003 on the file of the SRO, Purasawalkam. This will was attested by two attesting Witnesses namely (1) V.Raja and (2) V.Siva.

Ex.P3 is the original legal heirship certificate dated 04.06.2004 in respect of the deceased T.Shanmugam.

Ex.P4 is the Original death certificate of his mother Saraswathi, who died on 12.06.1997.

Ex.P5 is the is the affidavit of assets showing the Net value of the property as Rs.1,40,000/-.

Ex.P6 is a copy of paper publication effected in one issue of Tamil Daily "Malai Sudar" dated 09.03.2016.

Ex.P7 is a copy of paper publication effected in one issue of English Daily "News Today" dated 16.03.2016.

6. One of the attestors of the Will dated 13.08.2003 viz., V.Raja was examined as PW-2. In his evidence, PW-2 has stated that the testator executed his Last Will and Testament on 13.08.2003 in his presence and in the presence of one Mr.D.Siva. The Will and Testament is marked as Ex.P2. PW-2 subscribed his signature as first attesting witness along with one Mr.D.Siva, who attested as the second 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.P8 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.

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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.

08.05.2017

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