

O.P.No.236 of 2016**K.KALYANASUNDARAM, J.**

This Petition has been filed under Sections 218, 278 and 279 of the Indian Succession Act, 1925 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 1 and 2 are the sons and the third petitioner is the daughter of late T.K.Shanmugam and Mrs.Seethalakshmi. The father of the petitioners T.K.Shanmugam died intestate on 15.02.1973 leaving behind his wife Mrs.Seethalakshmi, sons T.K.S.Kalaivanan, T.K.S.Venkatesan and T.K.S.Venkatsan and T.K.S.Poongundran and a daughter T.K.S.Manonmani. After the demise of the said T.K.S.Shanmugam, the above said heirs divided the properties among themselves under a registered partition deed dated 27.03.1975 and it was registered as Document No.2235 of 1975. In the said partition, the mother of the petitioners was allotted a house property at New No.300/1, Old No.139B, Avvai Shanmugam Road (Lloyds Road), Chennai - 600 086, which consists of a ground floor, first floor and second floor and after her life time the ground floor was taken by T.K.S.Kalaivanan, the first petitioner herein, the first floor was taken by T.K.S.Venkatesan and the second floor was taken by T.K.S.Pugazhendhi, the second petitioner herein. Seethalakshmi Ammal died intestate on 17.02.1979 leaving behind her four sons and a daughter.

T.K.S.Poongundram, who was a bachelor, died intestate on 26.06.1998 and his property were jointly sold by the surviving children of T.K.Shanmugam and the sale proceeds shared equally.

3. It is further stated that T.K.S.Venkatesan, was a bachelor, died intestate on 17.08.2013 at his ordinary residence No.300/2, Avvai Shanmugam Salai, Chennai - 600 086 possessed of and let properties within Chennai and within the jurisdiction of this Court. T.K.S.Venkatesan died unmarried and his father and mother predeceased him. The petitioners' youngest brother T.K.S.Poongundram, who was a bachelor, died on 26.06.1998. The surviving brothers T.K.S.Kalaivanan, T.K.S.Pugazhendhi and sister T.K.S.Manonmani have become entitled to his properties as his legal heirs, who are the petitioners herein. The petitioners submit that apart from the first floor of the house property at New No.300/1, Old No.139/B, Avvai Shanmugam Road (Lloyds Road) and the property at New No.65E, Old No.140E, Gowdiya Mutt Road, Royapettah, Chennai - 600 014, the said T.K.S.Venkatesan, while alive had purchased a flat at Door No.B15, Aparajitha Apartments, AGS Colony, Fourth Main Road, Velachery, Chennai - 600042, measuring 440 Sq.ft. together with 342.026 Sq.ft. of undivided share of land comprise in Survey No.628/3 and 628/4 Velachery. The deceased died intestate, due and diligent search has been made for a Will, but none was found. The petitioners submit that there

are no Class I heirs or heirs under Class II Entry (1). The petitioners as the brothers and sister of deceased T.K.S. Venkatesan are heirs under Clause II Entry (2). To establish their right to the properties left by late T.K.S. Venkatesan it is necessary for the petitioners to obtain Letters of Administration in respect of the said properties. There are no other surviving kith and kin for the deceased T.K.S. Venkatesan and as the petitioners are the only legal heirs of the T.K.S. Venkatesan, they are entitled for grant of Letters of Administration. The amount of assets which is likely to come to the petitioners does not exceed in aggregate the sum of Rs.66,00,000/- and the net amount of the said assets after deducting all amounts which the petitioners are by law to deduct is only to the value of Rs.65,95,000/-

4. The petitioners undertook to duly administer the properties and the credit of the said deceased and to make a full and true inventory thereof and exhibit the same in this Court within six months from the date of the grant of Letters of Administration without Will to the petitioners and also to render to this Court a true account of the said property and credit within one year from the said date. The petitioners stated that no application has been made to any District Court or delegate or to any other High Court for the grant of Letters of Administration with or without the Will annexed to his property and credits.

5.The first petitioner, who examined himself as P.W.1, deposing evidence on behalf of himself as well as the petitioners 2 and 3. In his evidence PW1 has reiterated the averments made in the petition and filed the following documents viz., Exs.P1 to P9.

- a) Ex.P1 is the computer generated death certificate of his younger brother T.K.S.Venkatesan, who died on 17.08.2013.
- b) Ex.P2 is the photocopy of the death certificate of his father T.K.Shanmugam, who died on 15.02.1973.
- c) Ex.P3 is the photocopy of the death certificate of his mother S.Seethalakshmi Ammal, who died on 17.02.1979.
- d) Ex.P4 is the computer generated death certificate of his youngest brother T.K.S.Poongundran, who died on 26.06.1998.
- e) Ex.P5 is the photocopy of the partition deed dated 27.03.1975, which was registered as Doc.No.2235 of 1975 in the file of the Registrar of Madras-North.
- f) Ex.P6 is the photocopy of the sale deed dated 24.01.2008 executed by Mr.M.Sudharshan Rao and others in favour of his deceased younger brother Mr.T.K.S.Venkateshan, which was registered as Doc.No.205 of 2008 on the file of the SRO, Velachery.
- g) Ex.P7 is the affidavit of assets showing the Net value of the property as Rs.65,95,000/-.
- h) Ex.P8 is a copy of paper publication effected in one issue of Tamil daily "Maalai Sudar" dated 19.11.2016.
- i) Ex.P9 is a copy of paper publication effected in one issue of English daily "News Today" dated 28.11.2016.

6.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.

7.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. Each of 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.

06.04.2017

pvs

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