

**O.P.No.367 of 2016****K.KALYANASUNDARAM, J.,**

This Petition has been filed under Sections 218 and 278 of the Indian Succession Act, 1925 read with Order XXV Rule 5 of the Madras High Court Original Side Rules, seeking the grant of Letters of Administration.

2. In the petition, it is stated that the petitioner's older brother namely M.V.Kunhikannan died on 03.10.2015 at his ordinary residence at No.16, Palm Grove, 2<sup>nd</sup> Main Road, Besant Nagar, Chennai 600 090. The petitioner is the younger brother of the deceased and the deceased never married during his lifetime. He never had any children of his own and he permanently resided all through his life with the petitioner at the address given above in Besant Nagar. The deceased Kunhikannan had one sister, M.V.Madhavi and three brothers namely Karunakaran, Govindan and the petitioner herein. All the siblings of the deceased, except the petitioner herein, pre-deceased late Kunhikannan even before 2012. The father and mother of the deceased too pre-deceased late Kunhikannan. The Power of Attorney dated 01.02.2012 executed by the deceased Kunhikannan appointing the petitioner herein as his Power Agent for the purpose of dealing with his property in Kerala and the petitioner is only possessed of a photocopy of the said Deed and the original power of attorney was handed over to the third party purchaser at the time of sale of the property mentioned in the said document. The deceased died intestate on 03.10.2015 and the petitioner, the

only brother alive at the time of his death, is the sole surviving legal heir of the deceased and is entitled to the properties of the deceased.

3.It is the further case of the petitioner that the amount of assets which are likely to come into the petitioner's hands does not exceed in the aggregate sum of Rs.50,00,000/- and the net amount of the said assets, after deducting all items of expenditure being funeral expenses which the petitioner is by way allowed to deduct is of the value of Rs.49,80,000/-. The petitioner reiterates that the deceased has not left behind any other surviving legal heirs and the petitioner being his brother, is the only surviving legal heir entitled to the estate of the deceased according to the Hindu Succession Act. The petitioner hereby declares that he has made no application to any District Court or any High Court for the probate of any Will of the said deceased or letters of administration with or without the Will annexed of his properties and credits.

4.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 P12;

Ex.P1 is the Computer generated death certificate of late M.V.Kunhikannan, who died on 03.10.2015.

Ex.P2 is the original letter dated 28.01.2016 issued by the Tahsildar, Velachery Taluk.

Ex.P3 is the Photocopy for the period 2005-09.

Ex.P4 is the Photocopy of Passport of the deceased Kunhikannan bearing Passport No.D46JJ48.

Ex.P5 is the Photocopy of petitioner's Passport bearing No.M5086543.

Ex.P6 is the Photocopy of Allotment Letter dated 30.09.1969, issued by Reserve Bank Employees' Co-operative Building Society Limited, Madras.

Ex.P7 is the Photocopy of Sale Deed dated 16.07.1997 executed by the Reserve Bank Employees' Co-operative Building Society Limited, represented by its President in favour of the deceased.

Ex.P8 is the Computer Generated Property Tax Receipt dated 11.08.2015, standing in the name of the deceased.

Ex.P9 is the Photocopy of Power of Attorney dated 01.02.2012 executed by the deceased in petitioner's favour.

Ex.P10 is the affidavit of assets showing the net value of property of Rs.49,80,000/-.

Ex.P11 is a copy of paper publication effected in one issue of Tamil Daily "Makkal kural" dated 22.09.2016.

Ex.P12 is a copy of paper publication effected in one issue of English Daily "Trinity Mirror" dated 30.09.2016.

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5. 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.

6. 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.

**24.01.2017**

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