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O.P.No.655 of 2007

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **03.07.2024**

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

O.P. No. 655 of 2007

B.Gopal

... Petitioner

Vs.

1.B.Boopathy

2.B.Nataraja Naicker

3.V.Bhaskaran

4.V.Kamaktchi

5.Indurani

... Respondents

*(R5 impleaded as per the order dated
04.07.2023 in A.No.4544 of 2022 and
time extended by order dated 23.11.2023)*

PRAYER: Original Petition filed under Sections 232 & 276 of the Indian Succession Act XXXIX of 1925, read with Order XXV Rule 5 of Original Side Rules to grant him Letters of Administration of the Will annexed to the petitioner as one of the son and one of the legatee under the Will of the deceased having effect limited to the State of Tamil Nadu.

For Petitioner : M/s.Swaraj Associates

For R1 : Mr.V.Kamal

For R2 to R4 : Mr.G.Justin



O.P.No.655 of 2007

ORDER

WEB COPY

The petition has been filed seeking Letters of Administration with Will annexed, executed by V.Balarama Naicker, who died on 15.02.1994. His wife, Sakku Bai pre-deceased him on 27.01.1991. V.Balarama Naicker had executed a Will dated 01.03.1993. It had been stated that the original Will was traced only in the year 2006, when the petitioner was white washing the house. It was only thereafter the application was filed seeking Letters of Administration.

2. The 1st respondent is represented by a counsel, but the 2nd, 3rd, 4th and 5th respondents though served, have taken a conscious decision not to attend the judicial proceedings. They had been set ex-parte by an order dated 18.01.2024. Even the 1st respondent had been set ex-parte on that date.

3. After following due procedure, the petitioner was directed to tender evidence. The petitioner examined himself as P.W.1. The original Will was marked as Ex.P1. The death certificate of the testator was



O.P.No.655 of 2007

marked as Ex.P2. Thereafter, the petitioner also examined as P.W.2 one of the attesting witness to the Will who affirmed Ex.P1 and stated that it was executed in his presence and in the presence of the other attester. He also stated that the testator and the attesters signed the Will in the presence of each other. He also stated that the testator was in sound state of mind.

4. Taking into consideration the evidence recorded, this Original Petition stands allowed and Letters of Administration to be granted in accordance with rules.

03.07.2024

Index :Yes/No
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O.P.No.655 of 2007

APPENDIX

Petitioner's witness:

P.W.1 – Mr.B.Gopal

P.W.2 – Mr.G.Chandramohan

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Original Will dated 01.03.1993 executed by Balarama Naicker.
Ex.P2	Death certificate of Mr.V.Balaraman Naicker.
Ex.P3	Affidavit of assets showing the net value of the estate as Rs.1,00,000/-.
Ex.P4	Copy of the paper publication effected in one issue of Tamil Daily “Makkal Kural” dated 21.02.2024.
Ex.P5	Copy of the paper publication effected in one issue of English Daily “Trinity Mirror” dated 29.02.2024.
Ex.P6	Affidavit of P.W.2

03.07.2024

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O.P.No.655 of 2007

C.V.KARTHIKEYAN,J.

Gsa

O.P. No. 655 of 2007

03.07.2024