

O.P.No.366 of 2019

K.KALYANASUNDARAM, J.

This petition has been filed under Sections 232 and 276 of the Indian Succession Act, 1925 read with Order XXV Rule 5 of O.S. Rules, for grant of Letters of Administration.

2.In the petition, it is stated that the deceased Prabhadevi ordinarily resided at Flat No.1F, Parkland Apartments, New Door No.3 Old Door No.2, Kamalabai Street, T.Nagar, Chennai and died on 05.12.2018. The petitioner is the son and the respondent is the husband of the deceased. The deceased had a daughter, viz., Anuradha Rao, who was given in adoption to the sister of the deceased, viz., U.Champa Rau and her husband U.Bhasker Rau and since then, she had been under their care and the said Anuradha Rao was given in marriage by her adopted parents. Therefore, Anuradha Rao, has no claim or interest over the properties both movable and immovable of the deceased Prabhadevi. The parents of the deceased predeceased her.

3. It is further stated that the deceased Prabhadevi, during her life time had purchased the property bearing Flat No.1F, New Door No.3, Old Door No.2,

Kamalabai Street, T.Nagar, Chennai, measuring 1220 sq.ft. on the first floor in the building known as Parkland Apartments, out of her own funds, vide a registered Sale Deed, dated 12.12.1999 bearing Doc.No.456 of 2000 in the SRO, T.Nagar, Chennai. Apart from the above property, the deceased had purchased shares of the reputed companies, viz., Tata Capita, UTI, Sundaram Tax Saver Dividend Yield, Tamil Nadu Finance & Infrastructure Development Corporation Limited, jointly with her husband K.R.V.Acharya, the respondent herein, in either or survivor account. Further, she had fixed deposits in Indian Overseas Bank and Government of India Bonds in State Bank of India and had a Savings Bank Accounts with Indian Overseas Bank. All the above fixed deposits and Government of India bonds and Savings bank account are either or survivor account jointly with her husband, the respondent and nominee is the petitioner. The deceased had Public Provident Fund Account, in which, the petitioner is the nominee and she had also 218.840 grams of gold jewels worth about Rs.6,62,858/-.

4. The deceased executed her last Will and Testament on 17.11.2011 in the presence of two witnesses, viz., Mr.M.Ranjan Rao and R.Muralidharan. No executor was appointed under the Will. By the Will, dated 17.11.2011, the deceased bequeathed all the movables and immovable property in favour of

the petitioner and therefore, the immovable property of the deceased mother devolves upon him absolutely and the movables assets stated therein. The deposits standing in the joint accounts of her mother and father with Indian Overseas Bank, T.Nagar, and Karnataka Bank, Mylapore, can be withdrawn by the respondent, as it is in either or survivor account. Natural Savings Certificate and deposits under Senior Citizen Savings Bank Account at General Post Office have matured and was withdrawn by the deceased during her life time. As far as Public Provident Fund held in the name of the deceased is concerned, both the petitioner and the respondent are nominees, hence, it will be paid in their favour. Similarly , the Fixed Deposits, Stock and Mutual Funds are also in either or survivor account, which can be transferred or realized by the first respondent.

5.The amount of assets which are likely to come in to the petitioner's hands do not exceed in the aggregate sum of Rs.57,52,208/- and the net amount of said assets, after deducting all items which the petitioner is by law allowed to deduct, is of the value of Rs.57,32,208/-.

6. No application has been made to any District Court or delegate or any other High Court for probate or for Letters of Administration to her properties

or credits. The petitioner undertakes to duly administer the property and credits of the deceased in any way concerning her Will by paying first her debts and then the legacies therein bequeathed as far as the assets will extend and to make a full and true inventory thereof and exhibit the same in this Court within six months from the date of grant of Letters of Administration with the Will annexed 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.

7. The petitioner examined himself examined as P.W.1 and filed proof affidavit, reiterating the averments contained in the petition and marked Exs.P1 to P8, viz.,

Exs	Documents	Dated
P1	Original Will executed by his mother Smt.Prabha Devi, which has been attested by two attesting witnesses, viz., Mr.M.Ranjan Rao and R.Muralidharan	17.11.2011
P2	Computer generated death certificate of his mother Prabha Devi, who died on 05.12.2018	-
P3	Photocopy of the Sale Deed executed in favour of Smt.Prabha Devi	12.12.1999
P4	Photocopy of the bank passbook for the account in 009101000015348, jointly maintained by his mother Prabha Devi and his father K.R.V.Acharya, with Indian Overseas Bank, T.Nagar Branch	-
P5	Consent affidavit given by the respondent	-

Exs	Documents	Dated
P6	Affidavit of assets showing the net value of the estate as Rs.57,32,208/-	-
P7	Copy of paper publication effected in one issue of Tamil Daily " Makkal Kural"	05.08.2019
P8	Copy of paper publication effected in one issue of English daily "Trinty Mirror"	12.08.2019

8. One of the attestors of the Will, viz., Mr.Muralidharan was examined as P.W.2. In his evidence, it is stated that the testatrix is his client testatrix executed her Last Will and Testament on 17.11.2011 (Ex.P1) in his presence and in the presence of Mr.M.Ranjan Rao. At her request, he subscribed his signature as the second attesting witness along with Mr.M.Ranjan Rao who attested the Will (Ex.P1) as the first attesting witness in the presence of the testatrix. The testatrix was in a sound and disposing state of mind, memory and in good health at the time of execution of Ex.P1 Will. Ex.P9 is the affidavit, in that regard.

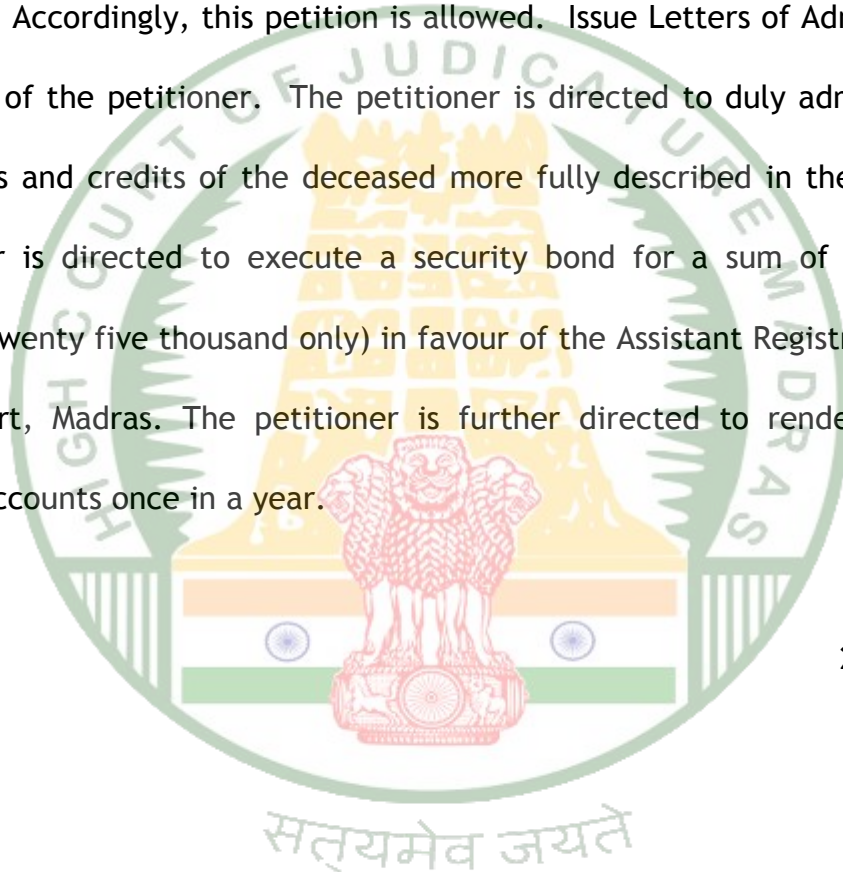
9. Despite the service of notice on the respondent and his name is printed in the cause list, none appears for the respondent.

10. 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.

11. 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 Will. The petitioner is 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.

25.11.2019

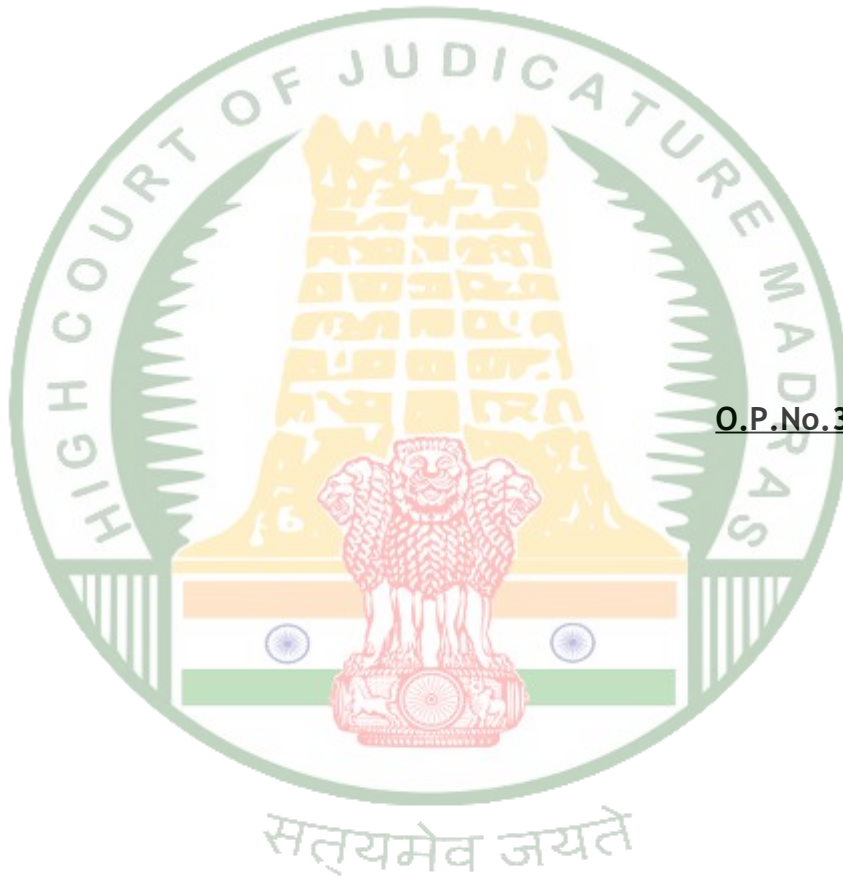
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