

O.P.No.338 of 2019

K.KALYANASUNDARAM, J.

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

2. In the petition, it is stated that the deceased B.Rajagopalan was ordinarily residing at 31, Millers Road, Kilpauk, Chennai and died on 20.10.2018 at his residence. The deceased executed his last Will and Testament on 10.05.1994 on the file of the Sub Registrar, Purasawalkam, Chennai in the presence of the witnesses. Since the whereabouts of the two witnesses of the Will could not be find out, the petitioners obtained third party affidavit of Sri Prakash Narayanan, and M.R.Jayakkar, who were present at the time of execution of the Will at the Sub Registrar Office.

3. The deceased Testator appointed Mr.B.Ramadurai / brother of the testator as the sole executor of the Will. The executor is also a beneficiary under the Will, but predeceased the testator on 02.03.2010. The first

respondent is the wife of the testator and the second respondent is the wife of the deceased executor. The petitioners are the daughters of the executor. In the Will, the first respondent is given life interest over the Schedule A properties and given power to enjoy the income and the revenue accruing from the Schedule properties and also given liberty to pledge, mortgage or create any charge over the schedule property. The first and second petitioners were allotted the Schedule A properties after the life time of the first respondent. As the executor was allotted Schedule B properties and he also died, the Schedule B Property devolves upon his legal heirs, viz., the petitioners and second respondent.

4. The amount of assets that are likely to come into the petitioners hands do not exceed in the aggregate sum of Rs.15,00,00,000/-. Since the Original Will of the deceased could not be found, the petitioners filed certified copy of the Will and undertake to file the original Will if traced out. No application has been made to any District Court or delegate or to any other High Court for the Probate of any Will of the deceased or Letters of Administration with or without the Will annexed to his property and credits.

5. The first petitioner examined herself as P.W.1, and reiterated the

averments made in the petition and filed the following documents viz.,
Exs.P1 to P17.

- a) Ex.P1 is the original decree dated 02.05.1975 in C.S.No.117 of 1974 by the High Court of Madras.
- b) Ex.P2 is the original Tamil Nadu Government Gazette notification dated 06.01.1993 evidencing change of name of the 2nd petitioner.
- c) Ex.P3 is the original Tamil Nadu Government Gazette notification dated 17.03.1999 evidencing change of name of the 1st petitioner.
- d) Ex.P4 is the certified copy of the Will and Testament dated 05.05.1994 executed by Mr.B.Rajagopalan, which has been attested by two attesting witnesses, viz., 1.M.Ramachandran and 2.T.K.Arumugam. Ex.P4 Will was registered as Doc.No.78 of 1994 on the file of the office of the Sub Registrar, Purasaiwalkam.
- e) Ex.P5 is the computer generated copy of the death certificate of Mr.B.Ramadurai, who died on 02.03.2010.
- f) Ex.P6 is the original Legal Heirship certificate dated 04.05.2010 in respect of Mr.B.Ramadurai.
- g) Ex.P7 is the photocopy of her Aadhaar Card.
- h) Ex.P8 is the photocopy of Aadhaar Card of the 2nd petitioner.
- i) Ex.P9 is the photocopy of Aadhaar Card of the 1st respondent.
- j) Ex.P10 is the photocopy of Aadhaar Card of the 2nd respondent.
- k) Ex.P11 is the computer generated copy of the death certificate of Mr.B.Rajagopalan, who died on 20.10.2018.
- l) Ex.P12 is the computer generated copy of the Legal Heirship Certificate dated 01.01.2019 in respect of Mr.B.Rajagopalan.

- m) Ex.P13 is the affidavit of assets showing the net value of the estate as Rs.15,00,00,000/-.
- n) Ex.P14 is a copy of paper publication effected in one issue of Tamil daily "Makkal Kural" dated 24.09.2019.
- o) Ex.P15 is a copy of paper publication effected in one issue of English daily "Trinity Mirror" dated 30.09.2019.
- p) Ex.P16 is the consent affidavit given by the 1st respondent.
- q) Ex.P17 is the consent affidavit given by the 2nd respondent.

She has further stated that she has not filed any other petition before any other court seeking the same relief.

6. One Sri Prakash Narayanan, a third party examined himself as PW2 and stated that he is well acquainted with the Testator and he knows the signature of the Testator. He further stated that he was present along with the Testator at the time of registration of the Will before the SRO, Pruasaiwalkam. He has filed an affidavit Ex.P18 in that regard.

7. The learned counsel for the respondents submitted that they have no objection for grant of Letters of Administration in favour of the petitioners and they have already filed consent affidavit to that effect.

8. Considering the averments made in the petition and on perusing the materials available on record, I am satisfied that the petitioners are entitled to the issuance of Letters of Administration.

9. 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 Will. The petitioners are 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.

15.11.2019

pvs

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pvs



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