

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(TESTAMENTARY AND INTESTATE JURISDICTION)

THURSDAY, THE 05TH DAY OF DECEMBER 2019

THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

O.P.No.567 of 2019

In the matter of Indian
Succession Act, 1925.

and

In the matter of the Estate
of Dr.D.Vimala Mary Intestate
deceased.

1. MRS.MIRANDA LAWRENCE
W/o.Mr.J.A.Lawrence
No.H-108/2,Vailankanni Church Road,
Seventh Avenue, Besant Nagar,
Chennai-600090.

2. MR.D.FRANCIS
S/o.Late Dorairaj,
No.19/20,
4th Street, Balaji Nagar,
Santhoshapuram, Vengaivasal,
Chennai-600073.

3. MR.D.XAVIER
s/o.Late Dorairaj.
No.6, Plot No.66,
Flat No.11, Lakshmiram Apartments,
Vedavalli Street, Saligramam,
Chennai-600093.

4.MR.BISHOP LAWRENCE PIUS
S/o.Late Dorairaj,
Bishop's House,
NH-7, Gundapatti Medu,
Dharmapuram-636701.

5. MR.D.ANTONY SUNDERRAJ
S/o.Late Dorairaj,
Flat No.9, Judi Flats, No.13,
Rosary Church Street,
Santhome, Mylapore,
Chennai-600004.

..PETITIONERS

Original Petition praying that this Hon'ble Court be pleased to issue Letters of Administration to the properties and credits of the deceased Dr.D.Vimala to have effect limited to the State of Tamil Nadu may be granted to the 5th petitioner viz., Mr.D.Antony Suderraj.

The Original Petition coming on this day before this court for hearing the court made the following order:

This petition is filed under Sections 218 & 278 of the Indian Succession Act, 1925 r/w Order XXV Rule 5 of Original Side Rules, to issue Letters of Administration in respect of the properties and credits of the deceased, Dr.D.Vimala, to have effect limited to the State of Tamil Nadu in favour of the 5th petitioner, Mr.D.Antony Sunderraj.

2. I heard the learned counsel for the petitioners. The learned counsel for the petitioners submitted that the sister of the petitioners, namely, Dr.D.Vimala Mary, died as a spinster on 21.01.2017 at No.4, Nimmo Road, Santhome, Mylapore, Chennai - 600 004. He further submitted that she died intestate, leaving the petitioners as her only legal heirs in view of the fact that her parents predeceased her.

3. He also submitted that the present petition has been filed so as to issue Letters of Administration in respect of the estate of the deceased, Dr.D.Vimala, who owned an immovable property admeasuring about 1977 sq.ft. comprised in Block No. 52,78, No.2588, situated at No.4, Nimmo Road, Santhome, Mylapore, Chennai - 600 004 and a land measuring about 2400 Sq.ft out of 9.72 acres, comprised in S.No. 381, situate in T.T.Kundur Village, Tiruchirapalli Taluk and District. These assets have been valued at a sum of Rs. 76,40,000/-. In order to substantiate his case, the learned counsel for the petitioner submitted that evidence was adduced before the

learned Magistrate through the 5th petitioner, who was examined as PW1. The following documents were marked through PW1:

(i) Ex.P1 is the photocopy of the Sale Deed dated 06.06.1986 in the name of deceased D.Vimala Mary (Marked after comparing and verifying with the original)

(ii) Ex.P2 is the photocopy of the Sale Deed dated 26.03.1977 in favour of Sarah Dorairaj (The original of Ex.P2 is in bank locker)

(iii) Ex.P3 is the computer generated copy of the death certificate of D.Vimala Mary who died on 21.01.2017.

(iv) Ex.P4 is the photocopy of the death certificate of Mr.K.A.Dorairaj, who died on 20.10.2005 (Marked after comparing and verifying with the original)

(v) Ex.P5 is the photocopy of the Family card bearing No.02/G/0786970 in respect of the deceased D.Vimala Mary (Marked after comparing and verifying with the original)

(vi) Ex.P6 is the photocopy of the death certificate of Sarah Dorairaj, who died on 30.07.2003 (Marked after comparing and verifying with the original)

(vii) Ex.P7 is the consent affidavit given by the 1st petitioner.

(viii) Ex.P8 is the consent affidavit given by 2nd petitioner.

(ix) Ex.P9 is the consent affidavit given by 3rd petitioner.

(x) Ex.P10 is the consent affidavit given by 4th petitioner.

(xi) Ex.P11 (series 2 Nos) are the copies of paper publication effected in one issue of Tamil daily "Maalai Sudar" dated 24.10.2019 and one issue of English daily "News Today" dated 01.11.2019.

(xii) Ex.P12 is the affidavit of assets showing the

net value of the estate as Rs.76,30,000/-.

On the basis of the above submissions and the evidence adduced, the learned counsel for the petitioner submitted that this petition is liable to be allowed.

4. I considered the submissions of the learned counsel for the petitioner and examined the evidence on record. From the aforesaid, the following facts are clear:

(i) the deceased died at Chennai within the jurisdiction of this Court on 21.01.2017 as evidenced by the death certificate (Ex.P3).

(ii) The estate of the deceased consists of properties in the name of the deceased and her late Mother (Ex.P1 & P2).

(iii) Consent affidavits have been given by petitioners 1 to 4 for the issue of Letters of Administration to the 5th petitioner.

(iv) As per the affidavit of assets, the value of the assets is shown as Rs.76,30,000/-.

5. Therefore, the petitioners have made out a case for the grant of Letters of Administration with regard to the estate of the deceased Dr.D.Vimala. It is also stated by the petitioners that no other application has been made to any District Court or Delegate or any other High Court for Probate or Letters of Administration with or without a will annexed in respect of the estate of the late Dr.D.Vimala.

6. Therefore, this petition is ordered by directing that Letters of Administration be issued to the 5th petitioner in respect of the properties and credits of the deceased Dr.D.Vimala, which are set out in the schedule to the petition, to have effect limited to the State of Tamil Nadu. The said 5th petitioner shall execute a bond for a sum of Rs.25,000/- in the name of the Assistant Registrar (OS) and also submit a full and true inventory and true

accounts before this Court as per the undertaking in paragraph 11 of the petition.

Sd/.S.K.R.J.

05.12.2019

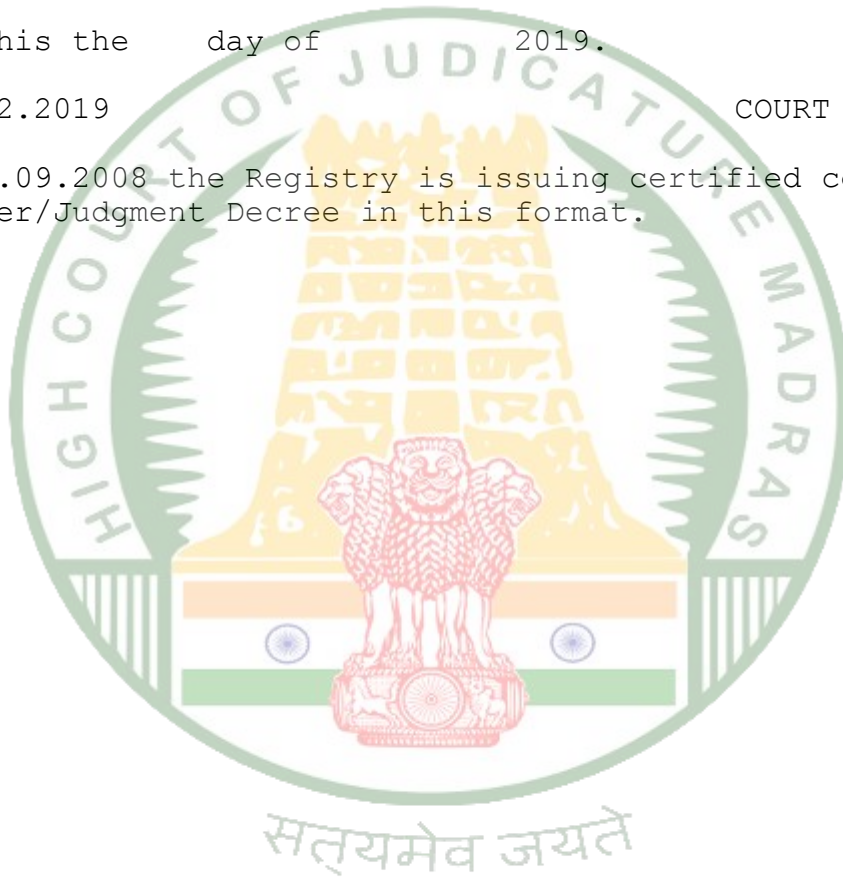
//Certified to be a true copy//

Dated this the day of 2019.

SU.19.12.2019

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.



WEB COPY