

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 29.04.2019	Delivered on 03.06.2019
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CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Application No.3094 of 2019
in OP No.964 of 2016

Ms.Raja M.Kausalya Devi ... Applicant

Vs

1. Mrs.Raja D Anasuya Devi
2. Raja D.V.Seetharamayyah Bahadur
3. R.V.Appa Rao
4. R.V.N.Prasada Rao
5. Jayakrishna Madura Madan ... Respondents

Prayer: Application is filed under Order XIV Rule 8 of the Original Side Rules read with Section 151 of the Code of Civil Procedure, praying to permit the applicant to pay the Succession duty as per Schedule I Article 6 of the Tamil Nadu Court Fees & Suits Valuation Act, of Rs.25,000/- relating to the property namely part of land in House and Ground Old No.111, Mowbrays Road, presently No.31 (Old No.15) Kasturi Ranga Road, Alwarpet, Chennai 600 018, land measuring 6 Grounds 1976 sq.ft., comprised in R.S.No.1576/2, Block No.32, Mylapore, Chennai bounded on North by R.S.No.1575/46; South by R.S.No.1576/8; 1576/9 and 1576/10; East by R.S.No.1575/13 and West by R.S.No.1577/13 included

as per order dated 08.02.2019 in Application No.1117/2019 in OP No.964 of 2016.

For Petitioner : Mr.T.Rajamohan

For Respondents : Mr.A.P.Soundararajan

ORDER

This application has been filed seeking permission to pay the duty payable on the Letters of Administration granted to the petitioner at Rs.25,000/- as per the Schedule I of the *Tamil Nadu Court Fees and Suits Valuation Act, 1955*, as amended by *Tamil Nadu Act 6 of 2017*.

2. The brief facts leading to the application are as follows:

The petitioner filed the above Original Petition in OP No.964 of 2016 seeking grant of Letters of Administration with a Will annexed in respect of the last Will and testament of late Raja D Seshayamma Garu, dated 25.01.1978. The testator died on 10.08.1978.

3. The Original Petition was allowed by this Court by order dated 08.08.2017 and the petitioner paid duty of Rs.21,60,000/- for the market value of the property that was assessed at Rs.7,20,00,000/- at 3% as per the then existing Article 6 of Schedule I of the *Tamil Nadu Court Fees and Suits Valuation Act, 1955*. Subsequent thereto the petitioner discovered that one property was omitted to be

included in the affidavit of assets filed along with Original Petition. In order to cure the defect that the petitioner applied for an amendment of the affidavit of assets in Application No.1117 of 2019 to include another property situate at Old No.111, Mowbrays Road, New No.31, Kasturi Ranga Road, Alwarpet, Chennai 600 018. The said application for amendment was allowed by me on 08.02.2019.

4. In view of the amendment and extension of the grant in respect of another property, the applicant became liable to pay further duty for the newly added property. In the interregnum, the Tamil Nadu Court Fees & Suits Valuation Act, 1955 was amended by Tamil Nadu Act 6 of 2017, the amended Article 6 of Schedule I reads as follows:

*Three per cent on the administration with or without will amount or value of the annexed estate in respect of which the grant of probate or letters of administration is made, **subject to a maximum of twenty five thousand rupees.***

5. Claiming that the petitioner would be liable to pay duty only as per the amended provision, inasmuch as, the property was included by way of an amendment that was ordered after the coming into force of the amending Act, the applicant has come forward with above application.

6. Mr.T.Rajamohan, learned counsel appearing for the applicant would contend that in view of the amendment, the petitioner would be liable to pay duty only as per the amended provision, which fixes a maximum ceiling of Rs.25,000/-. The learned counsel would also invite my attention to the judgment of Full Bench of this Court in ***Daivanayaga Reddiar and others v. Renukambal Ammal***, reported in ***AIR 1927 Madras 977***, wherein this Court had held that if the value of the suit is reduced pursuant to an amendment carried out to the *Madras Civil Courts Act 1873*, an appeal would lie only to the District Court irrespective of the value of the suit before the Trial Court. He would also contend that the amendment would take effect only from the date of the application and therefore, the liability to pay the duty should be decided on the basis of the law that was in force of the date of the application for amendment. The application for amendment was filed on 09.04.2019, i.e. after the amended Act had come into force.

7. I had an occasion to consider a similar issue in ***AS SR No.44524 of 2017, reported in 2018 (2) MWN 753***, wherein the question arose as to the Court Fee payable in an Appeal filed after the coming into force of the Amending Act 6 of 2017. I had held that the irrespective of the Court Fee paid

before the Trial Court, if the appeal is sought to be filed after the amending Act, the Court Fee payable only as per the amending Act. A Division Bench of this Court has also in **AS (MD) SR Nos.11388 of 2018 and 6854 of 2018** dated 31.08.2018 has taken the same view.

8. In view of the aforesaid pronouncements, I see justification in the prayer of the applicant. The duty payable would be only as per the amended Article 6 of Schedule I of the *Tamil Nadu Court Fees & Suits Valuation Act*, which fixes a maximum ceiling of Rs.25,000/-. The applicant is permitted to pay the maximum duty i.e. of Rs.25,000/- payable as per the Amended Article 6 towards duty.

9. On such payment the Registry is directed to issue a Letters of Administration in respect of the Will with the copy of the Will annexed.

sd/-R.S.M.J

03.06.2019

//Certified to be a true copy//
Dated this the day of 2019.

R.s/07.06.2019

COURT OFFICER

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