

O.P.No.399 of 2018

K.KALYANASUNDARAM, J.

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

2. In the petition, it is stated that the deceased J.Mangalam ordinarily resided at Plot No.960, Door No.17, Dr.Lakshmanasamy Salai, K.K.Nagar, Chennai - 600 078 and died on 08.12.2013. The husband of the deceased Mr.R.Janakiraman, had purchased the property measuring to an extent of 5000 sq.ft at Plot No.960, Door No.17, Dr.Lakshmanasamy Salai, K.K.Nagar, Chennai - 600 078, by way of registered Sale Deed dated 30.03.1998 vide Doc.No.1087/1998 on the file of the Sub Registrar Office, Virugambakkam and also put up a superstructure in the said property. After the death of Mr.R.Janakiraman, the property devolved on his wife J.Mangalam, who derived the title by succession. The said R.Janakiraman and J.Mangalam, had no issues out of their wedlock.

3. It is further stated that the deceased executed her last Will and Testament on 24.7.2012 in the presence of the witnesses in favour of the

petitioner, who is the brother of the deceased husband R.Janakiraman, only for the purpose of carrying out the Narasimha Jayanthi Festival every year, which was hitherto performed by the said R.Janakiraman and all his family members. No executor was appointed in the said Will. The petitioner / nephew, herein is the only beneficiary under the Will, who claims the estate of the deceased and other legal heirs are impleaded as respondents and there is no next of kin or other persons interested to be impleaded.

4. The amount of assets which are likely to come into the petitioner's hands does not exceed in the aggregate sum of Rs.4,00,00,000/- and the net amount of the said assets, after deducting all the items which the petitioner is by law allowed to deduct, is only of the value of Rs.4,00,00,000/-.

5. 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 the legacies therein bequeathed insofar 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 petition and also to render to this Court a true and proper account of the said properties and credits within one year from the said date.

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.

6. The petitioner examined himself as P.W.1 and marked the following documents viz., Exs.P1 to P13:

a) Ex.P1 is the photocopy of the death certificate of his father S.P.Ramakrishnan, who died on 23.05.1994.

b) Ex.P2 is the original last Will and Testament dated 24.07.2012 executed by his sister-in-law Mangalam Janaki Raman (wife of his eldest brother Janaki Raman) registered as Doc.No.85 of 2012 at SRO, Virugambakkam.

c) Ex.P3 is the computer generated death certificate of his sister-in-law J.Mangalam, who died on 08.12.2013.

d) Ex.P4 is the photocopy of the death certificate of his eldest brother R.Janakiraman, who died on 18.5.2003.

e) Ex.P5 is the photocopy of the legal heirship certificate dated 20.09.2004 in respect of his eldest brother R.Janakiraman.

f) Ex.P6 is the photocopy of the Sale Deed dated 30.03.1998 between the Tamil Nadu Housing Board in favour of his eldest brother R.Janakiraman registered as Doc.No.1087 of 1998 at SRO, Virugambakkam.

g) Ex.P7 is the photocopy of the death certificate of his another elder brother R.Kalyanaraman, who died on 24.11.2008.

h) Ex.P8 is the computer generated death certificate of his another brother R.Jayaraman, who died on 09.10.2015.

i) Ex.P9 is the photocopy of the death certificate of his eldest sister R.Rajalakshmi, who died on 01.04.2000.

j) Ex.P10 is the photocopy of the death certificate of his another elder sister Seetha Lakshmi, who died on 10.02.2006.

k) Ex.P11 is the affidavit of assets showing the net value of the estate as Rs.4,00,00,000/-.

l) Ex.P12 is a copy of paper publication effected in one issue of Tamil daily "Makkal Kural" dated 11.08.2019.

m) Ex.P13 is a copy of paper publication effected in one issue of English daily "Trinity Mirror" dated 18.08.2019.

He has further stated in his evidence that she has not filed any other petition seeking the same relief.

7. One of the attestors of the Will, Mrs.R.Krishna Priya, was examined as P.W.2. In her evidence, she has stated that the deceased is the maternal aunt of her husband. The deceased executed her last Will and Testament (Ex.P2) on 24.07.2012 in her presence and in the presence of V.Subhadra. At request of the deceased, she subscribed his signature as the first attesting along with V.Subhadra, who attested the Will as the second attesting witness. The Testatrix was in a sound and disposing state of mind, memory and understanding at the time of execution of Ex.P2 Will. She was also one of the identifying witnesses to the Will. She has filed an affidavit, Ex.P14 in that regard.

8. The third respondent examined himself as R.W.1 and marked the following documents viz., Exs.R1 to R8 :

- i) Ex.R1 is his consent affidavit.
- ii) Ex.R2 is the consent affidavit given by the 1st respondent.
- iii) Ex.R3 is the consent affidavit given by the 2nd respondent.
- iv) Ex.R4 is the consent affidavit given by the 4th respondent.
- v) Ex.R5 is the consent affidavit given by the 5th respondent.
- vi) Ex.R6 is the consent affidavit given by the 6th respondent.
- vii) Ex.R7 is the consent affidavit given by the 7th respondent
- viii) Ex.R8 is the consent affidavit given by the 8th respondent.

9. The learned counsel for the respondents would submit that the respondents have already given consent affidavit for grant of Letters of Administration in favour of the petitioner.

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 as prayed for. 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 directed to render account once in a year.

26.11.2019

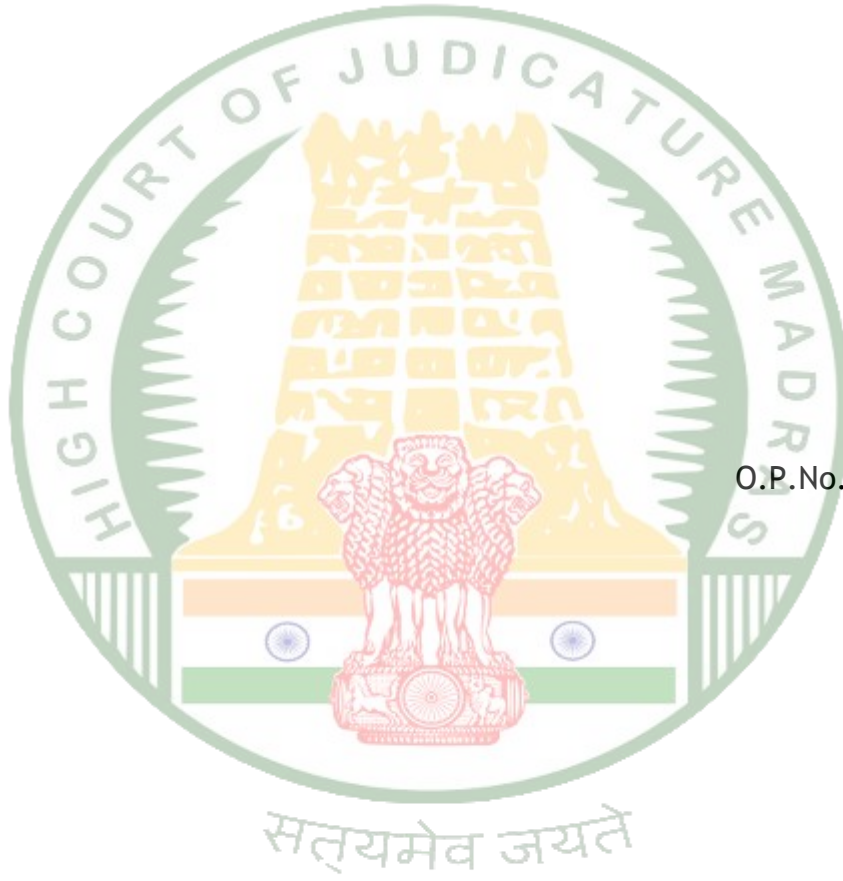
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