

O.P.No.603 of 2018

K.KALYANASUNDARAM, J.

This petition has been filed under Sections 232 and 276 of the Indian Succession Act, 39/1925 and Order XXV Rule 5 of O.S. Rules, 1956 for grant of Letters of Administration.

2.In the petition, it is stated that the deceased Parvathyammal, wife of Adimoolam died on 15.02.2015 at Rajiv Gandhi General Hospital, Chennai and she ordinarily resided at No.44/52, Muniappa Street, Perambur, Chennai-600011. The husband of the deceased Parvathyammal predeceased her and they have no issues. The parents of the deceased Parvathyammal also predeceased her and she had only one elder sister by name Deivanayaki, who has also predeceased her. The petitioner and the respondent are the children of the elder sister of the deceased Parvathyammal. The deceased executed her last Will and Testament on 07.08.2014 registered as Document No.81 of 2004 on the file of the Sub Registrar Office, Anna Nagar in the presence of witnesses, namely, Mr.S.Kalaivanan and Mr.R.Srinivasan. No executor was appointed under the Will. Subsequently, the deceased Parvathyammal executed a Codicil dated 01.12.2014 whereby the mistake in the survey

number of the property bequeathed under the Will was rectified in the presence of the witnesses, namely, Mr.Brahmaiah and Mr.S.Kalaivanan.

3.The amount of assets which are likely to come in to the petitioner's hands do not exceed in the aggregate sum of Rs.50,00,000/- 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.50,00,000/-.

4. No application has been made to any District Court or delegate or any other High Court for probate or for Letters of Administration with or without the Will or codicil annexed 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 and also to render to this Court a true account of the said property and credits within one year from the said date.

5.The petitioner examined himself as P.W.1, and reiterated the averments made in the petition and filed the following documents viz., Exs.P1 to P5.

- 1) Ex.P1 is the computer generated copy of the death certificate of Mrs.Parvathy, who died on 15.02.2015.
- 2) Ex.P2 is the original registered Will and Testament dated 07.08.2014 along with the Codicil dated 01.12.2014 executed by Mrs.A.Parvathy Ammal. The original Will has been attested by two attesting witnesses namely, 1.Mr.S.Kalaivanan and 2.Mr.R.Srinivasan and the Codicil has been attested by two attesting witnesses namely 1.Mr.Brahmaiah and 2.Mr.S.Kalaivanan. Ex.P2 Will was registered as Doc.No.81 of 2014 on the file of the office of the Sub Registrar, Anna Nagar.
- 3) Ex.P3 is the affidavit of assets showing the net value of the estate as Rs.50,00,000/-.
- 4) Ex.P4 is a copy of paper publication effected in one issue of Tamil daily "Maalai Sudar" dated 23.05.2019.
- 5) Ex.P8 is a copy of paper publication effected in one issue of English daily "News Today" dated 30.05.2019.

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

6.One of the attestors of the Will as well as the Codicil, Mr.S.Kalaivanan, was examined as PW2. In his evidence, he has stated that

the deceased executed his last Will and Testament (Ex.P2) on 07.08.2014 and the Codicil on 01.12.2014 in his presence and in the presence of Mr.R.Srinivasan and Mr.Brahmaiah respectively. At request of the Testatrix, he subscribed his signature as the first attesting witness along with Mr.R.Srinivasan, who attested the Will as the second attesting witness. He had further stated that he subscribed his signature as the second attesting witness in the Codicil and Mr.Brahmaiah has attested as the first 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 and Codicil. He has filed an affidavit Ex.P6 in that regard.

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

8.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.

9.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.

05.11.2019

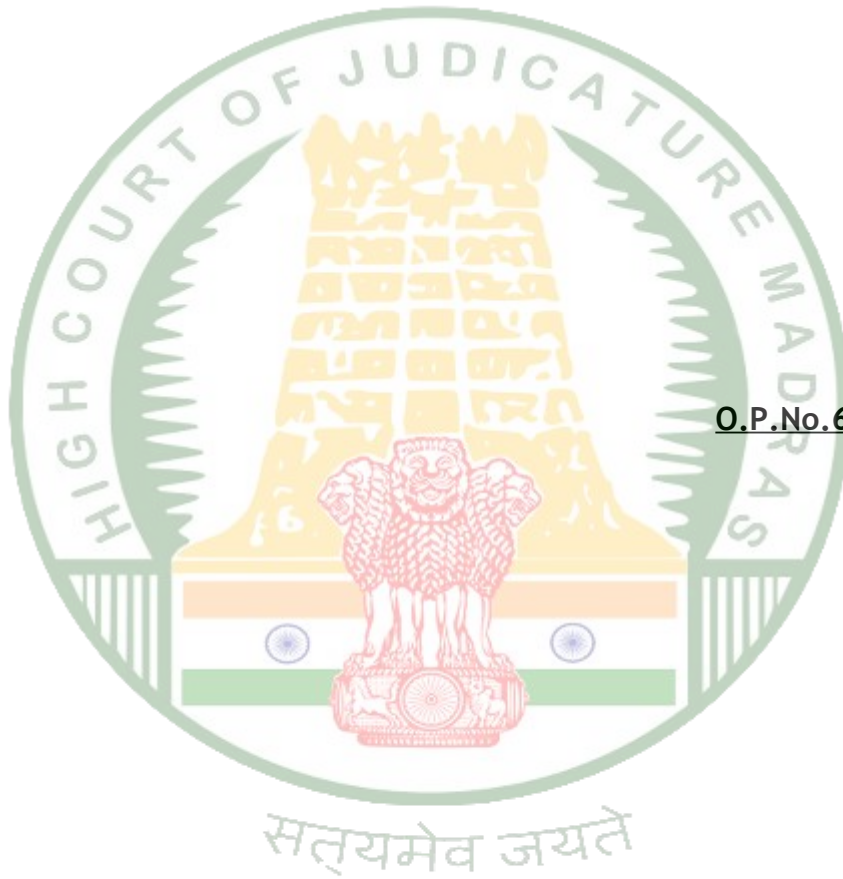
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