

O.P.No.658 of 2019

SENTHILKUMAR RAMAMOORTHY,J

This petition has been filed under Sections 218 and 278 of the Indian Succession Act 1925 and Order XXV Rule 5 of the Original Side Rules for grant of Letters of Administration of the properties of the Late.Kirubanandam who died intestate.

2. I heard the learned counsel for the petitioners.

3. The learned counsel for the petitioners submitted that the deceased R.Kirubanandam died on 05.06.2008 leaving behind the petitioners, who are brother's daughter and son, ie. niece and nephew, as his only surviving class II legal heirs. As regards the class I legal heirs, he submitted that the wife of the deceased, namely, K.Malathi, pre-deceased him on 18.04.2016. The mother of the deceased, R.Kirubanandam, also pre-deceased him. He further submitted that the father of the deceased, who was a class II legal heir, also pre-deceased him and the said Kirubanandam did not have any children and, therefore, the petitioners are the only surviving class II legal heirs.

4. He further submitted that the said deceased, Kirubanandam, ordinarily resided at No.63/54 Guruvappa Chetty Street, Chintadripet, Chennai -2, which is within the jurisdiction of this Court. He also submitted

that in spite of conducting a due and diligent search, no Will was found and therefore it may be concluded that the deceased R.Kirubanandam died intestate.

5. The learned counsel also submitted that Letters of Administration have been prayed for in respect of the two items of property, which are described in the Schedule to the petition. He also pointed out that evidence was adduced through the second petitioner, who was examined as P.W.1, and the following documents were exhibited through P.W.1:

i. Ex.P1 is the computer generated death certificate of the deceased R.Kirubanandam, who died on 05.06.2018.

ii. E.P2 is the computer generated death certificate of M.Raju Mudaliar @ Thirumalai, the father of the deceased, who died on 14.10.1970.

iii. Ex.P3 is the computer generated death certificate of K.Malathi, the wife of the deceased, who died on 18.04.2016.

iv. E.P4 is the photocopy of the Legal Heirship certificate dated 26.07.2016 in respect of K.Malathi.

v. Ex.P5 is the photocopy of the sale deed dated 31.03.1944 executed in favour of Raju Mudaliar.

vi. Ex.P6 is the photocopy of the Legal Heirship Certificate dated 14.04.2006 in respect of M.Raju Mudaliar @ Thirumalai

vii Ex.P7 is the photocopy of the Release Deed dated 14.12.1970 executed by R.Sachidanandan in favour of R.Kirupanandam.

viii. Ex.P8 is the photocopy of the certified copy of the Agreement dated 11.12.1918.

ix. Ex.P9 is the certified copy of the Will dated 05.02.1968 executed by Bakiyathammal.

x.Ex.P10 is the computer generated death certificate of Bakiyathammal, who died on 29.03.1989.

xi. Ex.P11 is the computer generated death certificate of Sachidanandhan who died on 19.09.1993.

xii. Ex.P12 is the photocopy of the Legal Heirship Certificate dated 15.06.1994 in respect of Sachidanandam.

xiii. Ex.P13 is the copy of paper publication effected in one issue of Tamil daily " Makkal Kural" dated 16.10.2019.

xiv. Ex.P14 is the copy of paper publication effected in one issue of English daily " Trinity Mirror" dated 23.10,2019.

xv. Ex.P15 is the affidavit of assets showing the net value of the estate as Rs.24,11,880/-.

6. Upon considering the submissions of the learned counsel and on examining the petition and the evidence, it is clear that the petitioners have established that the class I legal heirs of the deceased, Kirubanadam,

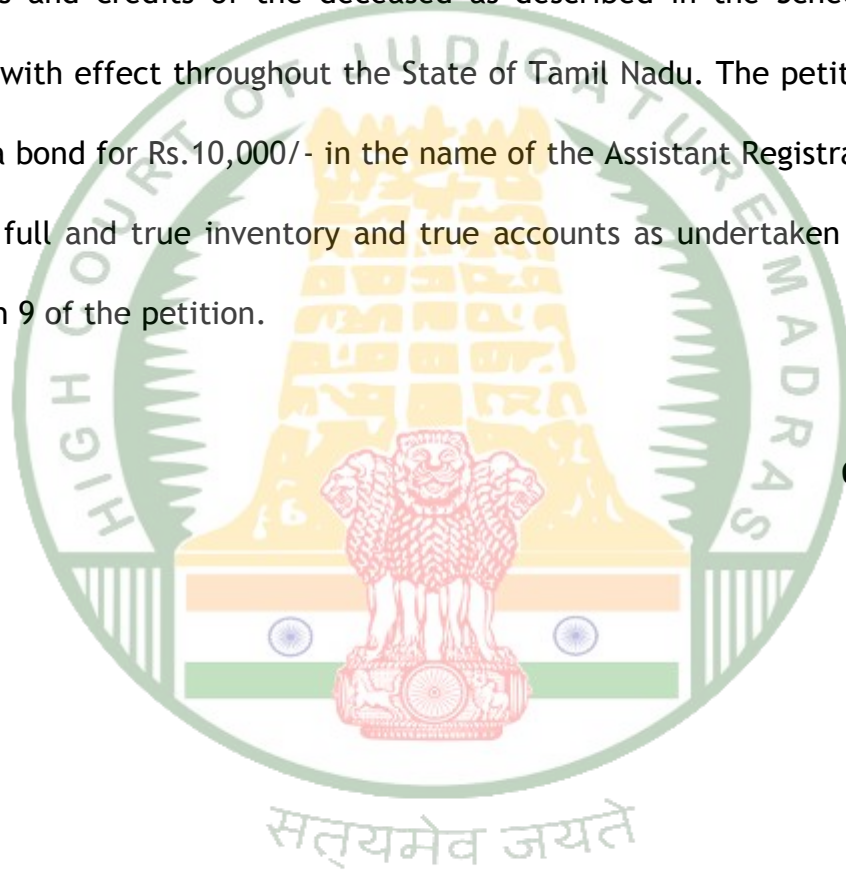
pre-deceased him. This is evidenced by the death certificates that have been marked as exhibits in respect of the said class I legal heirs. Similarly, the petitioners have also established that the father of the deceased Kirubanadam also pre-deceased him by producing the relevant death certificate. Consequently, it may be concluded that the petitioners are the only surviving class II legal heirs.

7. In respect of the two items of the property, the petitioners have produced the sale deed dated 31.03.1944 [Ex.P5] and the release deed dated 14.12.1970 [Ex.P7] as evidence of the title of the deceased Kirubanandam in respect of item No.1 of the petition schedule property. Similarly, as regards item 2 of the schedule property, the petitioners have exhibited a certified copy of the agreement dated 11.12.1918 [Ex.P8] and a certified copy of the Will dated 05.02.1968 [Ex.P9]. It is also evident that paper publication was effected in one issue of the Tamil daily " Makkal Kural" on 16.10.2019 [Ex.P13] and in the English daily " Trinity Mirror" dated 23.10.2019 [Ex.p14]. As stated earlier, the petitioners have also declared that no Will was found. It is also stated, in the petition, that no application was made earlier to any District Court or to the High Court for issuance of Letters of Administration in respect of the deceased R.Kirubanandam and that no previous petition was filed before this Court in this regard.

8. Upon considering the above facts and circumstances and the evidence adduced, it is found that the petitioners have made out a case for the grant of Letters of Administration. Accordingly, this petition is allowed as prayed for and the petitioners are granted Letters of Administration in respect of the properties and credits of the deceased as described in the Schedule to the petition with effect throughout the State of Tamil Nadu. The petitioners shall execute a bond for Rs.10,000/- in the name of the Assistant Registrar (O.S) and submit a full and true inventory and true accounts as undertaken by them in paragraph 9 of the petition.

03.12.2019

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