

O.P.No.242 of 2017

K.KALYANASUNDARAM, J.,

This Petition has been filed under Sections 232 and 276 of Indian Succession Act XXXIX of 1925 and Order XXV Rule 5 of O.S Rules.

2.In the petition, it is stated that the deceased K.T.Bakthavachala Naidu ordinarily resided at No.106, Kalavakkam Village, Thiruporur Taluk, Kancheepuram District and died on 08.11.2006 at his residence and left the properties within the jurisdiction of this Court. The deceased executed the Will and Testament, dated 22.04.2005 at Thiruporur, in the presence of two witnesses. The testator got the Will registered as Document No.12 of 2005 dated 22.04.2005, on the file of the Sub Registrar, Thiruporur. It is further stated that no executor has been appointed in the Will by the testator. The petitioner is the daughter-in-law of the deceased, the respondents 1 to 5 are the son and daughters of the deceased and the respondents 6 and 7 are the grandchildren of the deceased. It is further stated that the deceased was under the care and custody of the petitioner till his lifetime and hence, the deceased executed the Will in her favour. The deceased at the time of his death left behind the petitioner and the respondents as his surviving legal heirs or next of kin.

3.It is stated that the petitioner impleaded all the next of kin or other persons interested as party / respondent. There is no next kin or other persons interested to be impleaded. The amount of assets which are likely to come into the petitioner's hands does not exceed in the aggregate the sum of Rs.13,95,000/- and net amount of the said assets, after deducting all items which the petitioner is by way allowed to deduct is of the value of Rs.13,95,000/-. No application has been made at any District court or delegate or to any other High Court for probate of any Will of the said deceased or for Letters of Administration with or without the Will annexed to his property and credits.

4.The petitioner undertakes to duly administer the properties and credits of the deceased and in any way concerning his will by paying first his debts and then the legacies therein bequeathed so far as the assets will extent and to make a full and true inventory thereof and exhibit the same in the Court within six months from the date of grant of Probate to the petitioner 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 herself as P.W.1 and filed proof affidavit and also marked the following documents viz., Exs.P1 to P15.

i) Ex.P1 is the photocopy of the Sale Deed dated 29.05.1993 in favour of Mr.K.T.Bakthavatchala Naidu (Marked after comparing and verifying with the original).

ii) Ex.P2 is the original Last Will and Testament dated 22.04.2005 executed by Mr.K.T.Bakthavatchala Naidu, which has been attested by two attesting witnesses namely 1.Mr.N.Janathanam and 2.E.Murthy. Ex.P1 Will was registered as Doc.No.12 of 2005 on the file of the office of the Sub-Registrar, Tirupporur.

iii) Ex.P3 is the original death certificate of the Testator K.T.Bakthavatchala Naidu, who died on 08.11.2006.

iv) Ex.P4 is the original Legal Heirship certificate dated 24.10.2007 in respect of Mr.Bakthavatchala Naidu.

v) Ex.P5 is the original death certificate of Mrs.B.Yasodammal, who died on 12.02.2010.

vi) Ex.P6 is the affidavit of assets showing the net value of the estate as Rs.13,95,000/-.

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

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

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

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

xi) Ex.P11 is the consent affidavit given by the 5th respondent.

xii) Ex.P12 is the consent affidavit given by the 6th respondent.

xiii) Ex.P13 is the consent affidavit given by the 7th respondent.

xiv) Ex.P14 is a copy of paper publication effected in one issue of Tamil daily "Maalai Sudar" dated 21.07.2018.

xv) Ex.P15 is a copy of paper publication effected in one issue of English daily "News Today" dated 29.07.2018.

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

6. One of the attestors of the Will N.Janarthanam was examined as P.W.2. In his evidence he has stated that he was running a workshop in Tirupporur and he knew the testator as he had done several electrical motor services to the motors in his field. He had further stated that the testator executed his last Will on 22.04.2005 (Ex.P2) in his presence and in the presence of E.Murthy. At the request of the testator P.W.2 subscribed his signature as the first attesting witness and E.murthy, attested the Will as the second attesting witness. The testator was in sound and disposing state of mind, memory and understanding at the time of execution of Ex.P2 Will. He was also one of the identifying witnesses at the time of registration of the Ex.P2 Will before the Sub-Registrar, Tirupporur. Ex.P16 is the concerned affidavit, in that regard.

7.The learned counsel appearing for the respondents would submit that the respondents have no objection for allowing this petition and they have already filed consent affidavit to that effect.

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.

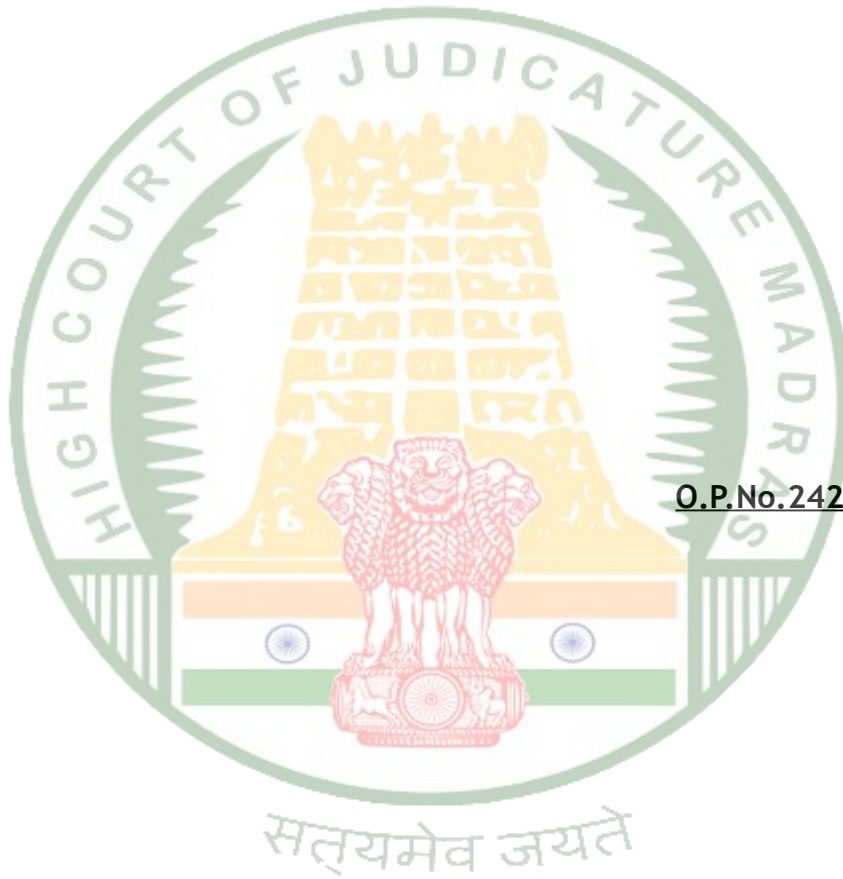
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K.KALYANASUNDARAM, J.

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