

O.P.No.1049 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 4 of O.S. Rules for grant of Letters of Administration.

2. In the petition, it is stated that the deceased V.V.Rajabather Mudaliar ordinarily resided at No.5, Bommulier Street, Chennai - 600 001 and died on 24.09.1975, leaving behind his Son viz., V.R.Ramachandran and three daughters, the respondents 2 to 4 herein as his legal heirs. The deceased V.V.Rajabather Mudaliar purchased the property situated at Door No.23, Arunachala Easwarar Koil Street, Tondiarpet, Chennai - 600 081 from the Corporation of Chennai, a Statutory Body constituted under the provisions of the Madras City Municipal Act IV of 1919. The deceased executed his last Will and Testament at Chennai on 30.1.1972 in the presence of the witnesses. Since the whereabouts of the two witnesses of the Will could not be find out, the petitioners obtained third party affidavit of Tmt.C.Kannabai, who is none other than the mother-in-law of the third petitioner, who is present at the time of execution of the Will.

3. The 1st respondent and her husband V.R.Ramachandran, who is the son of the testator were given life interest in the property. The deceased Testator appointed V.R.Ramachandran / son of the testator as the sole executor of the Will only in respect of the mortgage amounts, fixed deposits, savings deposits, the amount lent on promissory notes and the pensioners relief fund, which shall be realized by the executor and after payment of the debts of the deceased if any, and meeting his funeral, obsequies and testamentary expenses. The said V.R.Ramachandran, died intestate on 28.04.1987, leaving behind i) R.Mallika -wife, 1st respondent herein; ii) R.Pachiappan - Son, who died as bachelor on 04.05.1989; iii) R.Pachaiammal - Daughter, 1st petitioner herein; and iv) R.Padmapriya - Daughter, 2nd petitioner herein. Hence, the petitioners are the sole beneficiaries under the Will.

4. The amount of assets which are likely to come into the petitioners hands does not exceed in the aggregate sum of Rs.22,31,100/- and the net amount of the said assets, after deducting all the items which the petitioners are by law allowed to deduct, is only of the value of Rs.22,31,100/-. The petitioners have impleaded the next kin or other persons interested. There is no next of kin or other persons interested to be impleaded.

5. The petitioners undertakes to duly administer the property and credits of the deceased in any way concerning his Will by paying first his 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.

6. 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.

7. The 1st petitioner examined herself as P.W.1 and deposed evidence on behalf of the other petitioner and marked the following documents viz., Exs.P1 to P10:

a) Ex.P1 is the photocopy of the Sale Deed dated 04.09.1962 in favour of Mr.V.V.Rajabather Mudaliar.

b) Ex.P2 is the original registered Will and Testament dated 30.01.1972 executed by Mr.V.V.Rajabather Mudaliar which has been attested by two attesting witnesses namely 1.Mr.Parthasarathy and 2.G.Rajabather. Ex.P2 Will

was registered as Doc.No.19 of 1972 on the file of the Office of the Registrar, Madras.

c) Ex.P3 is the photocopy of the death certificate of the Testator Mr.V.V.Rajabather Mudaliar, who died on 24.09.1975.

d) Ex.P4 is the photocopy of the Legal Heirship certificate dated 16.10.1975 in respect of Mr.V.V.Rajabather.

e) Ex.P5 is the computer generated copy of the death certificate of Mr.Ramachandran, who died on 28.04.1987.

f) Ex.P6 is the photocopy of the Legal Heirship certificate dated 25.5.1987 in respect of Mr.V.R.Ramachandran.

g) Ex.P7 is the computer generated copy of the death certificate of Mr.Patchiappan, who died on 04.05.1989.

h) Ex.P8 is the affidavit of assets showing the net value of the estate as Rs.22,31,100/-.

i) Ex.P9 is a copy of paper publication effected in one issue of Tamil daily "Makkal Kural" dated 28.09.2019.

j) Ex.P10 is a copy of paper publication effected in one issue of English daily "Trinity Mirror" dated 05.10.2019.

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

8. One Mrs.C.Kannabail, a third party examined herself as P.W.2 and stated that she is well acquainted with the Testator and also the attesting witnesses viz., Mr.Parthasarathy and G.Rajabather, as her neighbours. She knows the signature of the Testator and the attesting witnesses. She further stated that she was present along with the Testator at the time of registration of the Will (Ex.P2) before the Registrar's Office, Madras. She has filed an affidavit Ex.P11 in that regard.

9. Considering the averments made in the petition and on perusing the materials available on record, I am satisfied that the petitioners are entitled to the issuance of Letters of Administration.

10. Accordingly, this petition is allowed. Issue Letters of Administration in favour of the petitioners as prayed for. The petitioners are 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 petitioners are directed to render account once in a year.

26.11.2019

ms

O.P.No.1049 of 2018

K.KALYANASUNDARAM, J.

ms



O.P.No.1049 of 2018

WEB COPY

26.11.2019