

O.P.No.845 of 2018

K.KALYANASUNDARAM, J.

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

2.In the petition, it is stated that the first petitioner's mother A.P.Devaki died on 27.10.2010 at Chokli Medical Center, Chokli and she was ordinarily resided at Akkool Poyil House, Chokli, Chokli Census Town, Thalassery, Kerala-670672. The second petitioner is the younger sister of the deceased and the respondents are the sons and daughters of the deceased. The deceased executed her last Will and Testament on 19.05.2008 in the presence of witnesses, namely, U.P.Karunan and K.K.Ramachandran. The deceased at the time of her death left behind the first petitioner and the respondents as her surviving legal heirs or next of kin. No executor was appointed under the Will.

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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 petitioners are 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 his properties or credits. The petitioners undertake 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 second petitioner examined herself as P.W.1, and deposed evidence on behalf of the first petitioner also and filed the following documents viz., Exs.P1 to P14.

- 1) Ex.P1 is the certified copy of the Sale Deed dated 30.06.1976 in favour of Mrs.A.P.Devaki.
- 2) Ex.P2 is the original unregistered Will and Testament dated 19.05.2008 executed by Mrs.A.P.Devaki, which has been attested

by two attesting witnesses, namely, 1.Mr.U.P.Karunana and 2.Mr.K.K.Ramachandran.

- 3) Ex.P3 is the computer generated copy of the death certificate of Mrs.A.P.Devaki, who died on 27.10.2010.
- 4) Ex.P4 is the photocopy of the Legal Heirship certificate dated 30.05.2011 in respect of Mrs.A.P.Devaki (Marked after comparing and verifying with the original).
- 5) Ex.P5 is the photocopy of the savings bank passbook bearing account No.35842327991 in the name of Mrs.A.P.Devaki (Marked after comparing and verifying with the original).
- 6) Ex.P6 is the consent affidavit given by the 1st respondent.
- 7) Ex.P7 is the consent affidavit given by the 2nd respondent.
- 8) Ex.P8 is the consent affidavit given by the 3rd respondent.
- 9) Ex.P9 is the consent affidavit given by the 4th respondent.
- 10) Ex.P10 is the consent affidavit given by the 5th respondent.
- 11) Ex.P11 is the consent affidavit given by the 6th respondent.
- 12) Ex.P12 is the affidavit of assets showing the net value of the estate as Rs.50,56,723.47.
- 13) Ex.P13 is a copy of paper publication effected in one issue of Tamil daily "Maalai Sudar" dated 15.03.2019.
- 14) Ex.P14 is a copy of paper publication effected in one issue of English daily "News Today" dated 22.03.2019.

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

6. One of the attestors of the Will, Mr.K.K.Ramachandran, was examined as PW2. In his evidence, he has stated that the deceased executed her last Will and Testament (Ex.P2) on 19.05.2008 in his presence and in the presence of Mr.U.P.Karunan. At request of the Testatrix, he subscribed his signature as the second attesting witness along with Mr.U.P.Karunan, who attested the Will 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. He has filed an affidavit Ex.P15 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 petitioners are entitled to the issuance of Letters of Administration.

9. Accordingly, this petition is allowed. Issue Letters of Administration in favour of the petitioners. The petitioners are directed to duly administer the

properties and credits of the deceased more fully described in the Will. 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 further directed to render true and correct accounts once in a year.

26.09.2019

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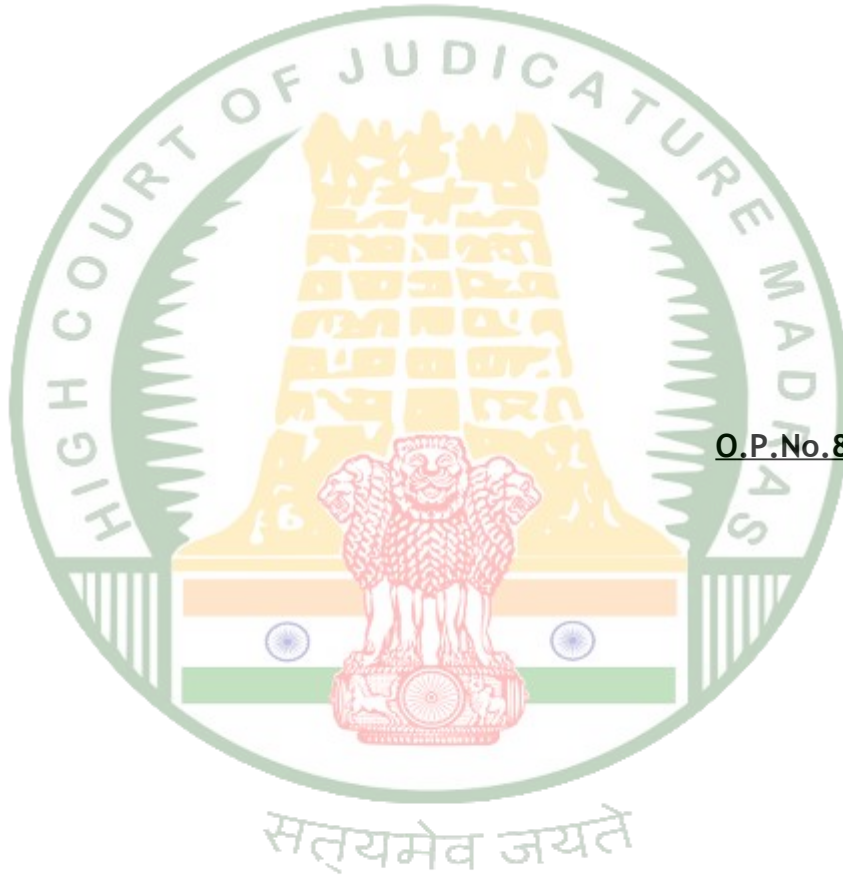


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