

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2020

CORAM:

THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

O.P. No. 315 of 2019

B.Sekar

... Petitioner

vs

1. Vanaja Vivegananda Ramassamy
2. B.Baskaran
3. B.Sridhar

... Respondents

Prayer: Original Petition filed under Sections 232 and 276 of the Indian Succession Act 1925 and order XXV Rule 5 of OS Rules, to grant Letters of Administration with the Will annexed to the petitioner herein, who is the second son of the Testator and once of the beneficiary/legatee under the Will of the deceased having effect limited to the State of Tamilnadu.

For Petitioner : Ms. C.Jayachitra

J U D G M E N T

This petition is filed for grant of Letters of Administration with the Will annexed to the petitioner, who is the second son of the Testator.

2. I heard the learned counsel for the petitioner.

3. The learned counsel for the petitioner submits that this petition is filed in respect of the estate of the father of the petitioner

namely Mr.A.Balaguru, who died on 18.07.2014, at No.3/29, III Main Road, Sri Ayyappa Nagar, Chennai-92, which was also his ordinary place of residence and within the jurisdiction of this Court.

4. The learned counsel further submitted that the father of the petitioner executed his last Will and Testament on 15.07.1998. She further submitted that evidence was adduced to prove the Will by examining the petitioner as P.W.1 and eight documents were exhibited through P.W.1.

5. In addition, she submitted that one of the attesting witnesses in the Will, namely, Mr.A.Murugan, was examined as P.W.2. With regard to the three respondents, she submitted that the second and third respondents are also beneficiaries under the Will and that they are in enjoyment of respective bequest in the Will. Therefore, she submitted that the said respondents did not enter appearance inspite of receipt of notice in the petition. The affidavit filed by P.W.2 is marked as Ex.P9.

WEB COPY

6. Based on the aforesaid oral and documentary evidence, she submitted that the petitioner has duly proved the Will and is entitled to Letters of Administration.

7. I considered the submissions of the learned counsel for the petitioner and examined the evidence recorded in the matter.

8. From the above, the following is evident:

1. The death certificate of the Testator has been marked as Ex.P3 and evidences that he died on 18.07.2014.
2. The original Will has been marked as Ex.P2, which shows that it has been attested by two attesting witnesses viz., Mr.D.Narasimman and Mr.A.Murugan.
3. Paper publications were effected as evidenced by Ex.P7 and Ex.P8. One of the attesting witnesses, viz., A.Murugan, was examined as P.W.2, and deposed that the last Will and Testament was executed in his presence and in the presence of Mr.D.Narasimman and that the Testator was in sound and disposing state of mind at the time of execution of the Will.

9. It is stated in the petition that no previous application was made to a District Court or Delegate or to any other High Court for probate of any Will of the deceased or for Letters of Administration with or without the Will annexed of his property and credits.

10. Based on the foregoing, I find that the petitioner has duly proved the Will in accordance with law. Therefore, this petition is allowed

by directing that Letters of Administration be granted to the petitioner in respect of the last Will and Testament dated 15.07.1998 of the Late Mr.A.Balaguru with effect throughout the state of Tamil Nadu.

11. The petitioner is directed to execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five thousand only) in the name of the Assistant Registrar (Original Side), High Court of Madras. The petitioner is further directed to provide a full and true inventory of the property and credits and also a true account within the time limit specified in paragraph 14 of the petition.

09.01.2020

Index:Yes/No

Internet:Yes/No

Speaking Order/Non speaking order

rli

सत्यमेव जयते

WEB COPY

SENTHILKUMAR RAMAMOORTHY, J.

rli



O.P. No. 315 of 2017

WEB COPY

09.01.2020