

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.07.2020

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

O.P.No.526 of 2019

Sakuntaladevi ... Petitioner

Vs

Nidimusali Soundaryamma ... Respondent

Prayer: Original Petition filed under Section 232 & 276 of the Indian Succession Act, 1925 read with Order XXV Rule 5 of the Original Side Rules praying to grant Letters of Administration with the Will annexed to the petitioner as paster daughter beneficiary under the Will of the deceased to effect limited to the State of Tamil Nadu.

For Petitioner : Mr.S.Sethuraman

For Respondent : Mr.P.Ragavan

ORDER

The petitioner has invoked the Testamentary and interstate Jurisdiction of this Court for grant of Letters of Administration in respect of the Will of late K.Venkatasubba Reddy to have limited effect within the state of Tamil Nadu.

2. The petitioner would contend that K.Venkatasubba Reddy was a resident of Nellore in Andhra Pradesh and had died on 03.05.1990. Prior to his death the said K.Venkatasubba Reddy had executed a Will dated 10.07.1989 at Chennai in the presence of witnesses whose name appear at the foot of the Testament. The said Will has also been registered as Document No.49 on the file of the Sub Registrar Office, Adyar.

3. At the time of his death, the said K.Venkatasubba Reddy had left behind him surviving his wife and daughter as his only legal heirs. Thereafter, his wife also passed away on 08.07.2002 leaving behind her surviving her only daughter who is the respondent herein. Apart from the

respondent there are no other legal heirs under the Will, in respect of which the Letters of Administration is sought for. The said K.Venkatasubba Reddy bequeathed the immovable property acquired by him at Tharamani, Chennai in favour of the petitioner herein who was taking care of him as his daughter.

4. The Testator has not appointed any Executor under the Will. Therefore, the petitioner has come forward with this petition for grant of Letters of Administration. The petitioner's counsel would submit that the respondent has given consent for the grant of Letters of Administration in favour of the petitioner and the affidavit of consent has been marked as Ex.P.7. The death certificate of K.Venkatasubba Reddy has been marked as Ex.P.2. The death certificate of K.Venkatasubba Reddy's wife has been marked as Ex.P.3 and her legal heirship certificate has been marked as Ex.P.4. These documents would show that the respondent was the only legal heir of the deceased K.Venkatasubba Reddy.

5. The learned counsel would submit that in the light of the Will being proved by examining the attesting witness and in the light of the consent of the sole legal heir of K.Venkatasubba Reddy, the respondent herein, the petitioner is entitled to grant of Letters of Administration.

6. Heard the counsel and perused the evidence both oral and documentary. The petitioner as P.W.1 has adduced evidence on the same lines as contained in her petition and she has also marked the following documents.

Sl.No		Description of Documents
1	Ex.P.1	The original registered Will and Testament dated 10.07.1989 executed by K.Venkatasubba Reddy.
2	Ex.P.2	The photocopy of the death certificate of K.Venkatasubba Reddy.
3	Ex.P.3	The photocopy of the death certificate of K.Venkatasubba Reddy's wife.
4	Ex.P.4	The photocopy of the legal heirship certificate of K.Venkatasubba Reddy's wife.
5	Ex.P.5	The photocopy of receipts and notices.
6	Ex.P.6	The copy of the guideline value and property valuation as on 31.12.2018.
7	Ex.P.7	The consent affidavit given by the respondent.
8	Ex.P.8	The affidavit of assets.
9	Ex.P.9	The copy of paper publication effected in one issue of Tamil daily "Makkal Kural" dated 23.11.2019

Sl.No		Description of Documents
10	Ex.P.10	The copy of paper publication effected in one issue of English daily "Trinity Mirror" dated 30.11.2019

7. One of the attesting witnesses Nageswara Rao has been examined as P.W.2 and he has adduced evidence to the effect that he has witnessed the Testator executing the Testamentary deed and that the other witnesses had also witnessed the same. The Testator had also seen both the attesting witnesses affix their respective signatures at the foot of the Will, Ex.P.1. The witness also deposed to the effect that he was not only the attesting witness but was the identifying witness as well before the Sub Registrar Office, Adyar. The witness has stated that he has known the Testator for 40 years as he was their family friend. The consent affidavit of the respondent who is the sole legal heir of K.Venkatasubba Reddy which has been marked as Ex.P.17 would indicate that the Testator had executed the Will and bequeathed the property in favour of the petitioner. The Will having been proved and the respondent having given her consent for the grant, the petition is allowed as prayed for. No costs.

8. The petitioner shall 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. In addition, the petitioner shall also provide a full and true inventory of the properties and credits and also true accounts thereof within a period of six months and one year, respectively, from the date of grant.

17.07.2020

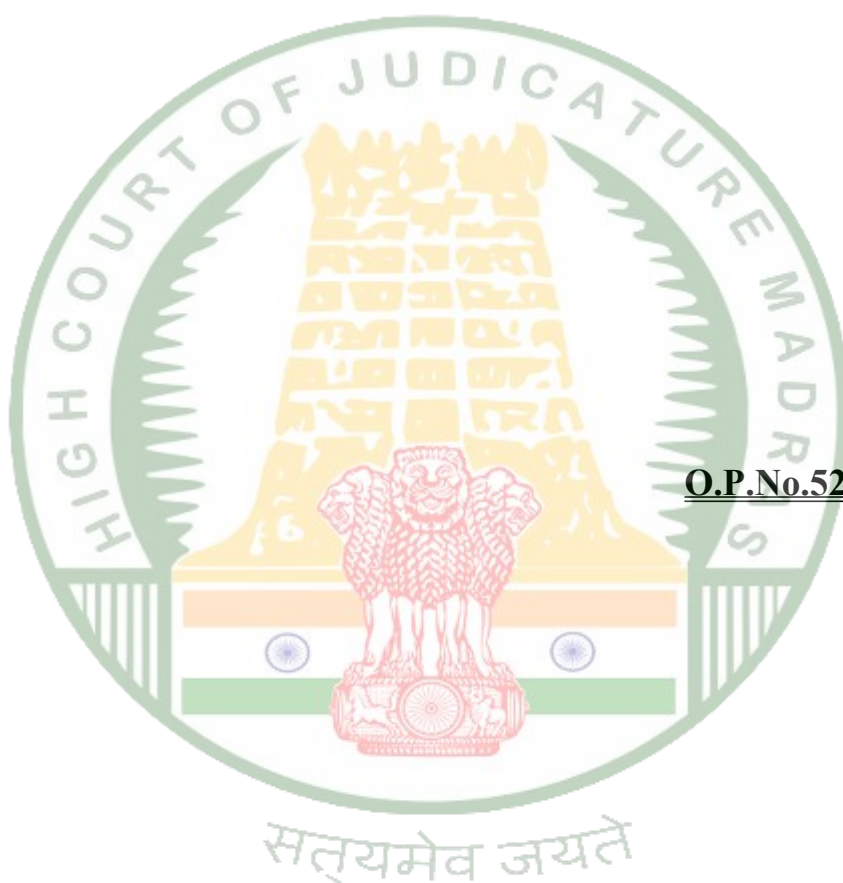
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