

O.P.No.471 of 2019

SENTHILKUMAR RAMAMOORTHY J.

This Petition is filed under Section 232 and 276 of the Indian Succession Act, r/w Order XXV Rule 5 of the Original Side Rules for grant of Letters of Administration with the Will annexed to the Petitioner in respect of the Last Will and Testament of the late T.V.Durai Babu.

2. I heard the learned counsel for the Petitioner. The learned counsel for the petitioner submitted that the Petitioner is the wife of the testator who died on 21.03.2015 at No.20/27, Gopal Pillai Nagar, Ayanavaram, Chennai-23, which was the place of ordinary/permanent residence. He further submitted that the petitioner is the second wife of the testator and that the first wife died prior to the marriage of the testator and the petitioner. He also submitted that the testator did not have biological children either through the first wife or through the petitioner. But the petitioner and the testator adopted one male child called D.Uthesh Babu and the said D.Uthesh Babu died intestate on 08.11.2009 leaving behind him, his wife, U.Jayalakshmi, and his two children, viz., U.Vigneshwaran and U.Gurunath as his surviving legal

heirs. The said persons are the respondents herein. He further submitted that evidence was adduced in order to prove the Will.

3. The petitioner was examined as P.W.1. During the examination-in-chief of P.W.1, the following 16 documents were exhibited as Ex.P1 to P16:

(1) Ex.P1 is the photocopy of the registered Sale Deed dated 30.06.1973 in favour of Mr.Durai Babu and his 1st wife, namely, Sarojini Ammal (marked after comparing and verifying with the original)

(2) Ex.P2 is the photocopy of the birth certificate of U.Vigneswaran, who was born on 26.03.2004 (marked after comparing and verifying with the original)

(3) Ex.P3 is the photocopy of the Tamil Nadu Government Gazette dated 20.02.2013.

(4) Ex.P4 is the original registered Will and Testament dated 12.05.2014 executed by Mr.T.V.Durai Babu, which has been attested by two attesting witness namely 1.Mr.K.Srinivasan and 2.Mr.N.Gandhi,. Ex.P4 Will was registered as Doc.No.48 of 2014 on the file of the office of the Sub Registrar, Anna Nagar.

(5) Ex.P5 is the computer generated copy of the death certificate of Mr.T.V.Durai Babu, who died on 21.03.2015.

(6) Ex.P6 is the photocopy of the petitioner's Aadhaar card bearing No.3000 5532 6303 (Marked after comparing and verifying with the original).

(7) Ex.P7 is the photocopy of the Aadhaar card of the 1st respondent U.Vigneshwaran bearing No.2615 4772 0656 (Marked after comparing and verifying with the original).

(8) Ex.P8 is the photocopy of the Aadhaar card of the 2nd respondent U.Gurunath bearing No.7407 4860 5706 (Marked after comparing and verifying with the original).

(9) Ex.P9 is the computer generated copy of the Legal Heirship certificate dated 24.07.2018 in respect of Mr.D.Utesh Babu.

(10) Ex.P10 is the computer generated copy of the Legal Heirship certificate dated 21.08.2018 in respect of MR.T.V.Durai Babu.

(11) Ex.P11 is the certified copy of the order dated 27.11.2018 passed in O.P.No.796 of 2019 by this Hon'ble Court.

(12) Ex.P12 is the computer generated copy of the birth certificate of U.Monish Babu, who was born on 16.04.2008.

(13) Ex.P13 is the computer generated copy of the death certificate of D.Utesh Babu, who died on 09.11.2009.

(14) Ex.P14 is the affidavit of assets showing the net value of the estate as Rs.48,20,000/-.

(15) Ex.P15 is a copy of paper publication effected in one issue

of the Tamil daily "Maalai Sudar" dated 23.11.2019.

(16)Ex.P16 is a copy of paper publication effected in one issue of English daily "News Today" dated 30.11.2019.

4. The learned counsel also submitted that one of the attesting witnesses, namely, Mr.N.Gandhi, was examined as P.W.2. The said attesting witness deposed that he knew the testator through his friend Mr.Munusamy. He also deposed that the Last Will and Testament was executed on 12.05.2014 in his presence and in the presence of the other attesting witness, Mr.K.Srinivasan. Moreover, he deposed that the testator was in a sound and disposing state of mind, memory and understanding at the time of execution of the Will Ex.P4. By referring to the aforesaid, the learned counsel submitted that the petitioner has duly proved the Will in accordance with law.

5. I considered the submissions of the learned counsel for the Petitioner and examined the evidence that was recorded in order to prove the Will.

6. From the above, I find that the original registered Will has been marked as Ex.P4. The said Will has been attested by two attesting witnesses namely, Mr.K.Srinivasan and Mr.N.Gandhi. It is

also registered as Doc.No.48 of 2014 on the file of the Sub Registrar, Anna Nagar. The death certificate of the testator has been marked as Ex.P5 and these document shows that he died on 21.03.2015. The legal heirship certificate of the testator has been marked as Ex.P10 and this document reflects the name of the petitioner as the only class 1 legal heir of the testator. The death certificate of the adopted son, D.Uthesh Babu, has been marked as Ex.P13. This document shows that he died on 09.11.2009. One of the above mentioned attesting witnesses namely, Mr.N.Gandhi was examined as P.W.2 and his evidence discloses that the Last Will and Testament was executed on 12.05.2014 in his presence and in the presence of the other attesting witness, Mr.K.Srinivasan. It further discloses that the testator was in a sound and disposing state of mind, memory and understanding at the time of execution of Ex.P4 Will.

7. Based on the foregoing, I conclude that the petitioner has proved the Will in accordance with law. Accordingly, this petition is allowed by directing that Letters of Administration with the Will annexed should be granted to the petitioner in respect of the Last Will and Testament of Mr.T.V.Durai Babu dated 12.05.2014 to have effect throughout the State of Tamil Nadu. The Petitioner shall execute a security bond for a sum of Rs.25,000/- in the name of the Assistant

Registrar, Original Side, High Court, Madras and shall provide to this

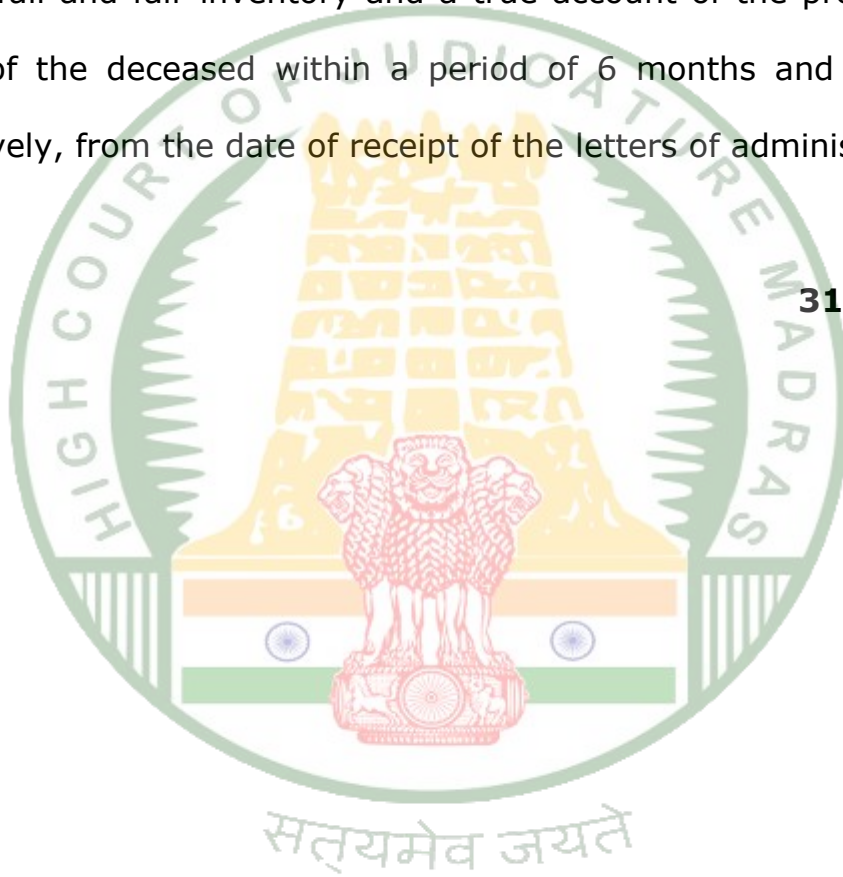
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Court a full and fair inventory and a true account of the property and credits of the deceased within a period of 6 months and one year, respectively, from the date of receipt of the letters of administration.

31.01.2020

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