

O.P.No.833 of 2012

SENTHILKUMAR RAMAMOORTHY, J

This petition has been filed under Sections 218 and 278 of the Indian Succession Act 39 of 1925 read with Order XXV Rule 5 of Original Side Rules for grant of Letters of Administration to the petitioner, without a Will, in respect of the property and credits of the deceased Suseelabaiammal @ Suseelabai.

2. I heard the learned counsel for the petitioner.

3. The learned counsel for the petitioner submits that the petitioner is the paternal nephew of late Suseelabaiammal @ Suseelabai in respect of whose estate of Letters of Administration is requested. He pointed out that the said Suseelabai was married to a person called M.Natesan and that the couple did not have any children. Suseelabai's husband M.Natesan predeceased her on 30.05.1996. The said Suseelabai died on 05.05.2005. Shortly, after her death, the petitioner applied to the Talsildar, Egmore, Nungambakkam Taluk for obtaining a legal heirship Certificate in respect of the said Suseelabai.

However, the Tahsildar refused to grant the said legal heirship Certificate on the basis that the petitioner is not a direct legal heir/Class I legal heir of the deceased. Thereafter, the petitioner's elder brother H.T.Thavaseelan died on 03.10.2009. All these facts resulted in delay in filing the Original Petition.

4. He further submitted that evidence was adduced by examining the petitioner as PW1. During the course of the examination-in-chief of PW1, the original death certificate of his paternal Aunt, Suseelabai was marked as Ex.P5. The death certificate of the petitioner's father H.Thangavelu, who died on 06.01.1993 was marked as Ex.P1. The legal heirship Certificate dated 10.05.1993 in respect of the petitioner's father H.Thangavelu was marked as Ex.P2 and this document shows that the petitioner's name in Serial No.3 as legal heir of his father H.Thangavelu. The death certificate of Suseelabai's husband Natesan, who died on 30.05.1996 was marked as Ex.P3. The death certificate of the petitioner's elder brother H.T.Thavaseelan, who died on 03.10.2009 was marked as Ex.P6. The original letter dated 30.06.2005 addressed to the Tahsildar, Egmore, Nungambakkam Taluk, Chennai-31 requesting for a Legal heirship Certificate was marked as Ex.P8. The reply from the Tahsildar on 22.08.2005 stating that it is not possible to give a Legalheir Ship Certificate to the petitioner was marked as Ex.P9. The

documents relating to the estate have been marked as Exs.P10 and P11 and the guideline value of the property was marked as Ex.P12. Paper publication was also effected and marked as Ex.P14 Series (2 Nos.). Based on the aforesaid, the learned counsel submitted that the petitioner has established that he is entitled to succeed to the estate of the Suseelabai, who was a paternal aunt, as only the surviving legal heir.

5. I considered the submissions of the learned counsel and examined the evidence adduced.

6. I find that the petitioner has filed the original death certificate of his paternal aunt, namely Suseelabai and this document shows that she died on 05.05.2005. He has also filed the death certificate of Mr.M.Natesan, the husband of Suseelabai, predeceased his paternal aunt and this document shows that he died on 30.05.1996. The death certificate of the petitioner's father was marked as Ex.P1 and this document shows that he died on 06.01.1993. The legal heirship certificate dated 10.05.1993 in respect of the petitioner's father reflects the name of the petitioner as the legal heir of his father. The death certificate of the petitioner's elder brother H.T.Thavaseelan was marked as Ex.P6 and this document reveals that he died on 03.10.2009. Paper publication

was effected in one issue of English daily 'Trinity Mirror' on 03.05.2013 and in one of Tamil Daily 'Makkal Kural' on 23.04.2013 and no objections have been received.

7. It is stated in the petition that in spite of due diligence in search, no Will was found in respect of the deceased. Therefore, I find that there is no impediment to grant a Letters of Administration to the petitioner. Accordingly, this petition is allowed by directing that the Letters of Administration be granted to the petitioner in respect of the assets described in the schedule to the petition. 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. The petitioner shall also provide a true inventory of the property and credits of the deceased within six months from the date of granting of Letters of Administration and also submit a true account of the said property and credits within one year from the said date.

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SENTHILKUMAR RAMAMOORTHY, J.
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