

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(TESTAMENTARY AND INTESTATE JURISDICTION)

TUESDAY, THE 15TH DAY OF DECEMBER 2020

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

O.P.No.559 of 2018

In the matter of Indian Succession Act
XXXIX of 1925 and
In the matter of the Last Will and
Testament of R.Poora Devi
(Deceased) died on 5.01.2017)

S.Nithya Devi
Old No.18, New No.10, Ayyah Mudali Street,
Royapettah, Chennai - 600 014.

... Petitioner

Vs

1. R.Gopinath
No.16/43, Muthu Mudali Street,
Royapettah, Chennai – 600 014.

2. Malini Sivakumaran
Old No.18, New No.10, Ayyah Mudali Street,
Royapettah, Chennai-600 014.

....Respondents

Original Petition praying that this Hon'ble Court be pleased to that

Letters of Administration with the Will dated 23.4.2008 annexed may be
granted to her as the legatee under the Will of the deceased to have effect

limited to the assets mentioned in the affidavit of assets to the State of Tamil

Nadu.

This Original Petition coming on this day before this court for hearing the court made the following order:

This Petition has been filed under Sections 232, 255 and 276 of the Indian Succession Act, 1925, read with Order XXV Rule 4 of the Original Side Rules, 1956, seeking to grant of Letters of Administration in respect of the last Will and Testament of the deceased R.Poora Devi.

2. This petition has been filed for grant of Letters Administration in respect of the Will, dated 23/4/2008, of one R. Poora Devi, grand mother of the petitioner. First respondent is the son of the deceased and second respondent is the daughter of the deceased. The deceased R.Poora Devi, died on 5/1/2017. Petitioner is the sole beneficiary. All the next of kin of the deceased have been impleaded as respondents. The amount of assets which is likely to come to the petitioner's hands does not exceed the aggregate sum of Rs.1,00,000/- and the net amount of the said assets after deducting all the items, which the petitioner is by law allowed to deduct is only Rs.80,00,000/-. The petitioner hereby undertakes to duly administer the specified property and credits of the deceased in any way concerning her Will by paying the debts first and then the legacies therein bequeathed so far as the assets will extend and to make full and true inventory thereof and exhibits the same in this Court within the six months from the date of the

grant of a Letters of Administration with the Last Will annexed to the petition and also to render to this Court a true account of the said property within one year from the said date.

3. Despite the service, first respondent not appeared. Second respondent has given a consent for grant of Probate in favour of the petitioner.

4. On the side of the petitioner, P.Ws.1 and have been examined and Exs. P.1 to P.8 have been marked.

5. Ex.P.1 is the original registered Will and Testament dated 23/4/2008 executed by Mrs.R.Pooru Devi, which has been attested by two attesting witnesses namely K.Yeshoda and K.S.Lalitha. Ex.P.2 is the computer generated copy of the death certificate of R.Pooru Devi, who died on 5/1/2017. Ex.P.3 is the computer generated copy of the death certificate of Mr.Raju, who died on 23/11/1997. Ex.P.4 is the photocopy of the Legal Heirship Certificate dated 19/7/2017 in respect of R.Pooru Devi. Ex.P.5 is the consent affidavit given by the second respondent. Ex.P.6 is the affidavit of assets showing the net value of the estate as Rs.80,000/-. Ex.P.7 are the copies of paper publication effected in one issue of Tamil daily "Maalai

Sudar” dated 26/2/2020 and one issue of English daily “Virtual Times” dated 5/3/2020. Ex.P.8 is the affidavit filed by P.W.2.

6. P.W.1 in her evidence had narrated the averments made in the petition stating that the petitioner has filed this petition for grant of Letters of Administration in her favour in respect of the Last Will and Testament executed by the deceased R.Poora Devi, executed on 23/4/2008.

7. P.W.2 in her evidence has stated that she has attested the Will as first attesting witness and one K.S.Lalitha has signed as second attesting witness in the Will. She has also stated that the testatrix was in sound state of mind while executing the Will and she has also seen the testatrix signing the Will and the other attesting witness signing in the document. She has also stated that the testatrix has seen the attesting witnesses subscribing their signature in the Will. The evidence of attesting witness not only prove the execution but also attestation of the Will and there is no other material to suspect the Will.

8. In view of the above facts, I am of the view that the petitioner has proved the execution and attestation of the Will. Hence, the petitioner is entitled for the issuance of Letters of Administration in her favour.

9. Accordingly, this petition is allowed. Issue Letters of Administration in favour of the petitioner. The petitioner is directed to duly administer the properties and credits of the deceased more fully described in the schedule. The petitioner is also 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 petitioner is further directed to render true and correct accounts once in a year.

Sd/.N.S.K.J.
15.12.2020

//Certified to be a true copy//
Dated this the day of 2020.

SU/23.12.2020

COURT OFFICER(O.S.)

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.

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