

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.07.2020

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

O.P.No.734 of 2018

K.Premavathy ... Petitioner

Vs

1.A.Premanatham

2.A.Nithyanandham

3.A.Dhamodharan

4.A.Parthiban ... Respondents

Prayer: Original Petition filed under Section 232 & 276 & 278 of the Indian Succession Act, 1925 read with Order XXV Rule 5 of the Original Side Rules for grant of Letters of Administration with the Will annexed to the petitioner as the daughter / sole beneficiary under the Will of the said deceased having effect throughout the state of Tamil Nadu.

For Petitioner : Mr.J.Ravikumar

For Respondents : No Appearance

ORDER

The above petition is filed for grant of Letters of Administration with the Will dated 07.01.2015 annexed.

2. The petitioner's case is that the property which is the subject matter of the Will dated 07.01.2015 belonged to one Kattayee, the mother of the petitioner herein. The said Kattayee died on 10.03.2015 within the Jurisdiction of this Court where she had been ordinarily residing.

3. Prior to her death, Kattayee had executed a registered Will dated 07.01.2015 which was registered on the file of Sub Registrar Office, Royapuram. The deceased Testatrix had not appointed any executor under the Will. The petitioner is not only the daughter of the testatrix but also the sole legatee / beneficiary under the said Will. It is in this capacity that she has filed the above petition for grant of Letters of Administration. The

respondents are the brothers of the petitioner herein.

4. It is seen that despite steps being taken the petitioner was unable to serve notice on the respondents and was therefore constrained to file an application in A.No.5882 of 2019 seeking leave to serve notice through substituted service through paper publication and the same was allowed on 16.08.2019. Notice has been taken in one issue of the Tamil Daily “Malai Sudar” dated 09.09.2019 and in one issue of English Daily “News Today” dated 25.12.2019. The respondents were therefore set ex parte.

5. The petitioner has examined herself as P.W.1 and has marked the following documents:

SI.No		Description of documents
1	Ex.P.1	The sale deed dated 25.03.1974 in the name of Testator Mrs.Kattayee bearing Doc.No.1979/1974 at SRO, Royapuram.
2	Ex.P.2	The original registered Will dated 07.01.2015 of Testator Kattayee bearing Doc.No.2 of 2015 on the file of the SRO, Royapuram.
3	Ex.P.3	The original Death Certificate dated 30.08.2015 of Testator Kattayee.
4	Ex.P.4	The original legal heirship certificate dated 05.10.2015.

6. The petitioner has also examined the attesting witness one Murali as P.W.2, who has adduced evidence to the effect that the Testatrix is his grand mother and that he was present on 07.01.2015 along with his maternal uncle the other witness at the house of the Testatrix and from where they had gone to the SRO, Royapuram, where the Testatrix had affixed her left thumb impression. Thereafter P.W.2 and his maternal uncle had also affixed their respective signatures as attesting witnesses. The witness would further state that the Testatrix was in sound disposing state of mind at the time of the execution of her Will.

7. The petitioner has proved the execution of the Will by examining P.W.2 who was the attesting witness of Ex.P.2 along with other witness. The witness is none other than the grand-son of the Testatrix. The learned counsel for the petitioner would also bring to the notice of this Court that the Testatrix (the mother of the petitioner and the respondents) had also made provisions for the 4 sons who have been given shares each and it is the mother's share that has been given to the petitioner. The respondents

have also not chosen to contest the claim of the petitioner. In the light of the above the petition is allowed. The Letters of Administration is granted to the petitioner. 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.

Internet : Yes/No
Index : Yes/No
Speaking / Non-Speaking
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