

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

TUESDAY, THE 01ST DAY OF DECEMBER 2020

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

O.P.NO.272 of 2016

In the matter of the Indian
Succession Act, XXXIX of 1925,
and

In the matter of the last Will and
Testament of Mrs.Pappa
Balasubramanian (deceased)

1. K.M.Viswanathan(deceased),

***2.Mrs.Vasanthi Viswanathan,**

***3.V.Hari**

***Both residing at
No:4, Shree Apartment,
14/62 II Main Road,
R.A.Puram, Chennai – 600 028.**

**Sole respondent transmitted as
2nd Petitioner and 3rd Petitioner
brought on record as the legal heir of
deceased 1st petitioner as per order dated
12.6.2017 in App.No.3026/17.**

: Petitioners

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

30.01.2000 annexed may be granted to the petitioners as the Sole beneficiary under the Will of the deceased Mrs.Papa Subramaniam having effect limited through out the State of Tamil Nadu to the Petitioner.

(Amended as per order dated 09.10.17 in A.No.6137 f 2017)**

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 and 276 of the Indian Succession Act read with **Order XXXIX of 1925 for grant of Letters of Administration in respect of the last Will and Testament of Mrs.Pappa Balasubramanian**

2. This petition has been filed for grant of Letters Administration in respect of the Will of one Mrs.Pappa Balasubramanian executed on 30.01.2000 in favour of the petitioners. The petitioner is the wife of the Testatrix's brother. K.M.Viswanathan is the brother of the deceased, other petitioners who were brought on record after the death of Mr.K.M.Viswanathan. It is the contention of the the petitioners that the deceased died on 14.02.2000. Hence, seeks Letters of Administration.

3. The amount of assets which is likely to come to the petitioner's hand does not exceed in the aggregate sum of Rs.10,00,000/- and the net amount of the said assets after deducting all the items, which the petitioner is by law allowed to deduct is only of the value of Rs.10,00,000/-. 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.

4. The second petitioner has examined herself as P.W.1 and Mr.V.Hari has been examined as P.W.2 and Ex.P.1 to P.13 have been marked.

5. P.W.1 in her evidence had narrated the averments made in the petition stating that she is the second petitioner herein and the third petitioner is her son. She has filed her proof affidavit stating the facts of this case and the same may be treated as part and parcel of her examination-

in-chief. In continuation of her proof affidavit, Ex.P.1 to Ex.P13 were marked. Ex.P2 is the original last will and Testament executed by the deceased Pappa Balasubramanian on 30.01.2000.

6. Mr.V.Hari has examined himself as P.W.2. In his evidence, he has stated that he adopted the proof affidavit filed by the 2nd petitioner herein. Ex.P.14 is his memo for adopting the proof affidavit filed by the 2nd petitioner who is his mother.

7. The evidence of first attesting witness (P.W.3) was recorded by the learned Advocate Commissioner at the residence of the the witness (as per the order passed in A.No.1091/2020 in O.P.No.272/2016). The first attesting witness has stated that on 30.01.2020, she was present in person together with husband of the deceased at the house of the deceased during execution of Will executed by the deceased. She was the first attesting witness and husband of the deceased is the second attesting witness in the above said Will. She stated that while executing the Will of Mrs.Pappa Subramanian, she was in sound and disposing mind.

8. In view of the above facts, I am of the view that the petitioners

have proved the execution and attestation of the Will. Hence, the petitioners

are entitled for the issuance of Letters of Administration in their favour.

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

Sd/.N.S.K.J.
01.12.2020

//Certified to be a true copy//

Dated this the day of 2020.

SU.15.12.2020

COURT OFFICER (O.S.)

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