

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

THURSDAY, THE 15TH DAY OF OCTOBER 2020

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

O.P.No. 566 of 2016

In the matter of Indian
Succession Act, XXXIX of
1925
and
In the matter of
Last Will and Testament
of N.Bangaruammal -
(Deceased)

N.CHANDRABABU
S/o.Late Narayanasamy,
No.1, Arangappan Street,
West Mambalam, Chennai-600 033 ..Petitioner

-Vs-

1. N.VENUGOPAL
S/o.Late Narayanasamy,
Amudhan Apartments,
1st Street, Old No.36-A,
New No.28, Govindan Road,
West Mambalam, Chennai-33.

2. B.PAPAAAYEE AMMAL
D/o.Late Narayanasamy,
Shanthi Colony,
Thillayadi Valliammal Street,
Saligramam, Chennai-92.

3. R.DHANALAKSHMI
D/o.Late Narayanasamy,
No.4, Seva Nagar,

3rd Street, Gandhi Road,
Velachery, Chennai-42.

4. K.SUSILA
D/o.Late Narayanasamy,
Old No.74, New No,94,
K.R.Koil Street,
West Mambalam, Chennai-33.

5. H.RAJALAKSHMI
D/o.Late Narayanasamy,
Old No.5/1, New No.9/1,
Old Slaughter House St,
Choolai, Chennai-112

6. N.HAMSA
D/o.Late Narayanasamy,
No.8A, 8th Floor,
Shanthi Colony,
Thillayadi Valliammal Street,
Saligramam Chennai-92.

7. N.BALAKRISHNAN
S/o.Late Narayanasamy,
No.62, Thirumalai Nagar,
Keelambakkam Route,
Sewapet(Via) Tirur-602 025.

8. K.BALAKRISHNAN
S/o.V.Kesavan,
New No.15, Old No.7,
Rangarajapuram Main Road,
Kodambakkam, Chennai-24.

..Respondents

Original Petition praying that this Hon'ble Court be pleased that he may be granted letters of administration with will annexed to the petitioner as son / beneficiary under the will said deceased thereof to have effect throughout the state of Tamilnadu .

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 XXV Rule 5 of the High Court Original Side Rules, seeking the grant of Letters of Administration.

2. Despite service of notice and the names of the respondents 1 to 6 and 8 having been printed in the cause list, there is no representation on behalf of the respondents and they have not filed caveat nor filed statement to contest the matter. The learned counsel appearing for the 7th respondent is present.

3. In the petition, it is stated that the deceased N.Bangaruammal died on 13.09.2004 at No.1, Arangappan Street, West Mambalam, Chennai 600 033 and she was ordinarily residing at the said address. The deceased possessed property at Chennai, within the jurisdiction of this Court. Parents of the deceased predeceased her. The deceased executed her last Will and testament on 14.02.2003 and the same was registered as Document No.8 of 2003 in the office of the SRO, Thyagarayanagar, Chennai 600 017. The deceased left the property described in the schedule of the Will and

bequeathed all her service benefits to the petitioner. Though one K.Balakrishnan was appointed as her executor of the Will no steps have been taken to obtain probate of the Will. The deceased has three sons and five daughters. The other two sons also settled the properties. Original Will is in the custody of the first respondent and he has not produced the same despite order of this Court passed in A.No.2272 of 2016. Therefore certified copy has been filed. The amount of assets which is likely to come to the petitioner's hands does not exceed in the aggregate sum of Rs.5,00,000/- 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.5,00,000/-. No application has been filed in any other Court for the probate of the Will of the said deceased or Letters of Administration with or without the Will annexed to her property. There is no next of kith and kin or other persons interested to be impleaded. The petitioner undertakes to duly administer the property and credits of the deceased N.Bangaruammal and in any way concerning her Will by paying first her debts and then the legacies therein bequeathed so far as the assets will extend and to make a full and true inventory thereof and exhibit the same to the Court within six months from the date of grant of Letters of Administration to the petitioner and also to render to this Court a true account of the said property and credits within one year from the said date.

4. The petitioner, who examined himself as P.W.1, reiterated the averments made in the petition and filed the following documents viz., Exs.P1 to P6;

Ex.P1 is the computer generated death certificate of the petitioner's mother N.Bangaruammal, who died on 13.09.2004.

Ex.P2 is the certified copy of Will dated 14.02.2003 executed by the petitioner's mother Bangaruammal registered as Doc.No.8 of 2003 on the file of the SRO, Thyagaraya Nagar. This Will has been attested by two attesting witnesses namely (1) R.Ramachandran and (2) Premalatha.

Ex.P3 is the photocopy of legal heirship certificate dated 27.09.2013 in respect of the petitioner's father V.Narayanasamy Naidu and petitioner's mother N.Bangaruammal.

Ex.P4 is the affidavit of assets showing the net value of the estate as Rs.5,00,000/-.

Ex.P5 is the copy of the paper publication effected in one issue of English Daily "News Today" dated 12.02.2017.

Ex.P6 is the copy of the paper publication effected in one issue of Tamil Daily “Malai Sudar” dated 05.02.2017.

5. One of the attestors of the Will dated 14.02.2003 viz., R.Ramachandran was examined as P.W.2. In his evidence, P.W.2 has stated that he was present at the time of execution of the Will along with Mrs.Premalatha and the deceased affixed her thumb impression in the Will. P.W.2 subscribed his signature as second attesting witness along with Premalatha, who attested the Will as the first attesting witness in the presence of the testatrix. While executing the Will, the testatrix was in a sound and disposing state of mind. Ex.P7 is his affidavit in this regard. Evidence of PW1 and PW2 remains unchallenged and the same has not been denied. When the evidence of PW1 is not denied and the evidence of attesting witness also clearly proves the execution of the attestation, further no other circumstances available on record to suspect the Will. The intention of the testatrix has to be respected by the Courts of law. When the Will is proved in the manner of law it has to be accepted as valid one, unless suspicious circumstances brought on record to doubt the validity of the Will. On perusal of the entire materials it is very clear that the Will was executed in the year 2003 and the testatrix died one and a half years later. The Will and evidence has not been denied and no pleadings has been made by the respondents.

6. Considering the averments made in the petition and on perusing the materials available on record, I am satisfied that the petitioner is entitled to the issuance of Letters of Administration.

7. 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.
15.10.2020

//Certified to be a true copy//

Dated this the day of 2020.

SU/22.10.2020

COURT OFFICER(O.S.)

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