

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2020

CORAM

THE HONOURABLE MR.JUSTICE **SENTHILKUMAR RAMAMOORTHY**

O.P.No.433 of 2019

1. N.R.Vijayalakshmi

2. C.S.Ashwin Kumar

...Petitioners

Vs.

1. C.S.Meera

2. Geetha Subramaniam

....Respondents

Original Petition filed for issue of Succession Certificate under Sections 232 and 276 of the Indian Succession Act read with Order XXV Rule 5 of the Original Side Rules praying that Letters of Administration with the Will annexed may be granted to the petitioners (wife and son) as the beneficiaries under the Will of the said deceased C.S.Swaminathan having effect throughout the State of Tamil Nadu.

For Petitioners : Mr.C.Ajithkumar

ORDER

This petition is filed for the grant of Letters of Administration with the Will annexed in respect of the last Will and Testament of the late Mr.C.S.Swaminathan.

2. I heard the learned counsel for the petitioners.

3. The learned counsel for the petitioners submitted that the first petitioner is the wife of the Testator and the second petitioner is his son. The first respondent is the daughter and the second respondent is the sister of the Testator. The learned counsel also submitted that the last Will and Testament was executed by the Testator on 27.03.2018 at Chennai in the presence of two witnesses, namely, Mrs.P.Amudhavalli and Mr.V.R.Rajagopalan. The said Will was registered as Document No.10 of 2018 in Book-III on the file of the Sub Registrar, Adyar, Chennai-20.

4. In order to prove the Will, the second petitioner was examined as P.W.1. During the course of the examination-in-chief of P.W.1, the following 14

documents were exhibited as Ex.P1 to Ex.P14:

Sl.No.	Description of the documents
1.	Ex.P1 - The photocopy of the Release Deed dated 31.01.2018 registered as Doc.No.1319 of 2018 at Joint-I Sub Registrar, Saidapet.
2.	Ex.P2 - The original last Will and Testament executed by the second petitioner's father C.S.Swaminathan on 27.03.2018, registered as Doc.No.10 of 2018 at SRO, Adyar.
3.	Ex.P3 - The computer generated death certificate of the second petitioner's father C.S.Swaminathan, who died on 09.07.2018.
4.	Ex.P4 - The computer generated legal heirship certificate dated 06.10.2018 in respect of the second petitioner's father C.S.Swaminathan.
5.	Ex.P5 - The photocopy of the death certificate of the second petitioner's paternal grandfather C.S.Subramaniam, who died on 31.01.2007.
6.	Ex.P6 - The computer generated death certificate of the second petitioner's paternal grandmother S.Rajam, who died on 14.03.2019.
7.	Ex.P7 - The photocopy of property tax demand card bearing No.0988347.
8.	Ex.P8 - The photocopy of the Aadhaar card in respect of the second petitioner's mother N.R.Vijayalakshmi bearing No.4404 8531 9579.
9.	Ex.P9 - The photocopy of the second petitioner's Aadhaar card bearing No.4968 2112 8626.
10.	Ex.P10 - The affidavit of assets showing the net value of the assets as Rs.99,80,000/-.
11.	Ex.P11 - A copy of paper publication effected in one issue of

Sl.No.	Description of the documents
	Tamil daily "Maalai Sudar" dated 14.11.2019.
12.	Ex.P12 – A copy of paper publication effected in one issue of English daily "News Today" dated 21.11.2019.

These documents include the original last Will and Testament dated 27.03.2018, the death certificate of the Testator, legal heirship certificate and the consent affidavits of the respondents herein. In addition, the learned counsel pointed out that one of the attesting witnesses, namely, Mr.V.R.Rajagopalan was examined as P.W.2. On the above basis, he submitted that the petitioners are entitled to the grant of letters of administration with the Will annexed.

5. I considered the submissions of the learned counsel for the petitioners and examined the evidence recorded in this case.

6. On perusal of the Will, I find that it is a registered Will bearing Document No.10 of 2018 in Book-III, on the file of the Sub Registrar, Adyar. I also find that the said Will was executed in the presence of two attesting witnesses, namely, Mr.V.R.Rajagopalan and Mrs.P.Amuthavalli before the Sub Registrar, Adyar. The death certificate of the Testator has been marked as Ex.P3 and this document discloses that he died on 09.07.2018. The legal heirship

certificate of the Testator has been marked as Ex.P4 and this document reflects the names of the first petitioner, the second petitioner, the first respondent and the mother of the Testator. It is stated in paragraph No.6 of the petition that the mother of the Testator died intestate on 14.03.2019. I also find that the respondents have submitted consent affidavits, which have been marked as Exs.P13 and P14. Moreover, one of the attesting witness was examined as P.W.2. The said attesting witness deposed that he knew the Testator as a family friend for a long time and he also deposed that the Will and Testament was executed on 27.03.2018 in his presence and in the presence of the other attesting witnesses, namely, Mrs.P.Amuthavalli. He also deposed with regard to the sound and disposing state of mind of the Testator at the time of execution of Ex.P2 the Will. Further he stated that he was one of the identifying witnesses at the time of registration before the Sub Registrar, Adyar.

7. Based on the aforesaid, I conclude that the petitioners have proved the Will in accordance with law. Therefore, this Original Petition is allowed by directing that Letters of Administration be granted to the petitioners in respect of the last Will and Testament dated 27.03.2018 of Mr.C.S.Swaminathan with effect throughout the State of Tamil Nadu. The petitioners 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 petitioners shall also provide a true inventory of the property and credits and also true accounts within a period of six months and one year, respectively, from the date of grant of letters of administration.

10.03.2020

Speaking/ Non Speaking Order

Index : Yes/ No

Internet : Yes/No

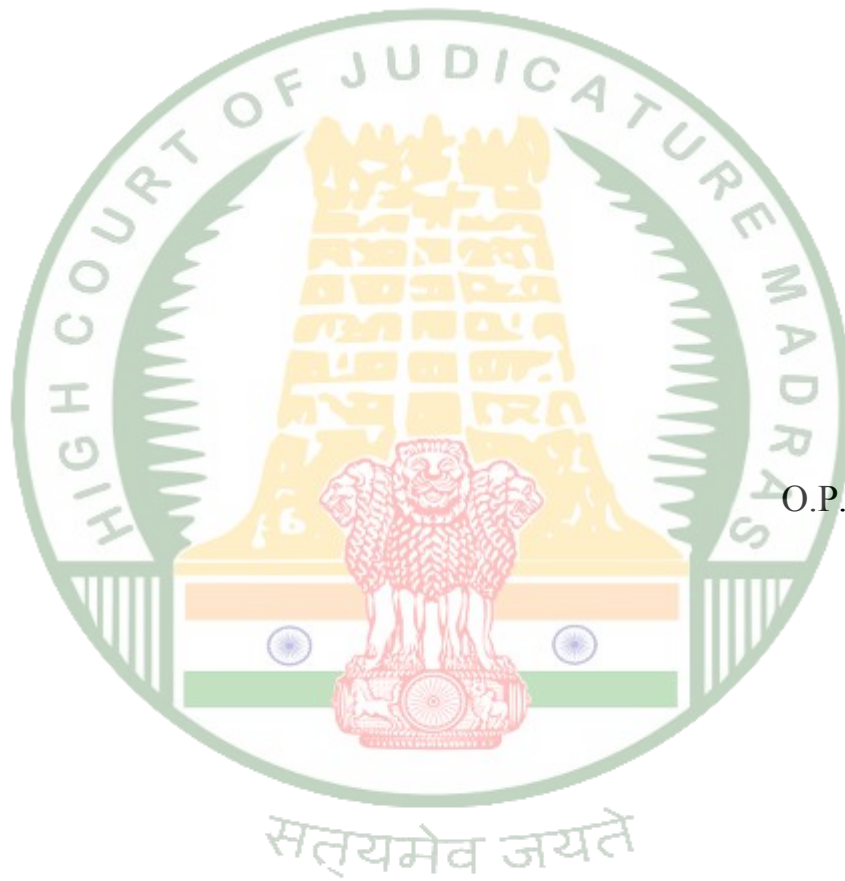
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SENTHILKUMAR RAMAMOORTHY, J.

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