

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2020

C O R A M

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

T.O.S. No.10 of 2014
(O.P.No.171 of 2012)

Mangalakshmi

... Plaintiff

Vs.

1. Indira
2. Malarvizhi

... Defendants

PRAYER: Petition filed under Sections 232 and 276 of Indian Succession Act and under Order XXV Rule 5 of Original Side Rules for the grant of letters of Administration. As per order of this Court dated 27.02.2014, the Original Petition No.171 of 2012 was converted into Testamentary Original Suit No.10 of 2014.

For Plaintiff : Ms.Sarojini Govindan
Defendants : Set exparte

J U D G M E N T

The suit has been originally filed as original petition and subsequently converted as TOS. On an application filed in A.No.509 of 2012 has been filed by the 1st respondent to revoke the order dated 28.09.2012, the Original petition has been converted as Testamentary Original Suit, by an order of this Court dated 27.02.2014.

2. Though sufficient opportunity has been given to the defendants, as they have not filed the written statement, the defendants were set exparte on 24.10.2019.

3. Heard the learned counsel appearing for the plaintiff.

4. The case of the plaintiff is that deceased Shanmugam is the husband of the plaintiff and he died testate leaving the Will dated 24.09.1998 bequeathing the property to the plaintiff and the Defendants 1 and 2. Hence, prayed for issue of Letters of Administration.

5. On the side of the plaintiffs, P.W.1 and P.W.2 were examined and Ex.P.1 to Ex.P.9 were marked. Ex.P.1, is the original Death Certificate of deceased Shanmugam, husband of the plaintiff has been filed to prove the death of Shanmugam. Ex.P.2 is the original registered Will, dated 29.10.1998. Legal Heir certificate Ex.P.3 is also filed. P.W.2 was examined to prove the execution and attestation of the Will. P.W.2 in his evidence has given evidence that the Will was executed by Shanmugam while he was in sound state of mind and he has witnessed execution as well as attestation. P.W.2 has stated that he signed as the first witness in the Will and one Mr.Navaminai has signed as the second witness in the Will.

Evidence of P.W.2 remains unchallenged and no contra evidence has been proved.

6. In view of the fact that attested witness has clearly spoken about the execution and attestation of the Will, this Court also does not find any suspicion on the Will and the Suit has to be decreed.

7. Accordingly, the suit is decreed. Issue Letters of Administration in favour of the plaintiff. The plaintiff is directed to duly administer the properties and credits of the deceased more fully described in the schedule. The plaintiff 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 plaintiff is further directed to render true and correct accounts once in a year.

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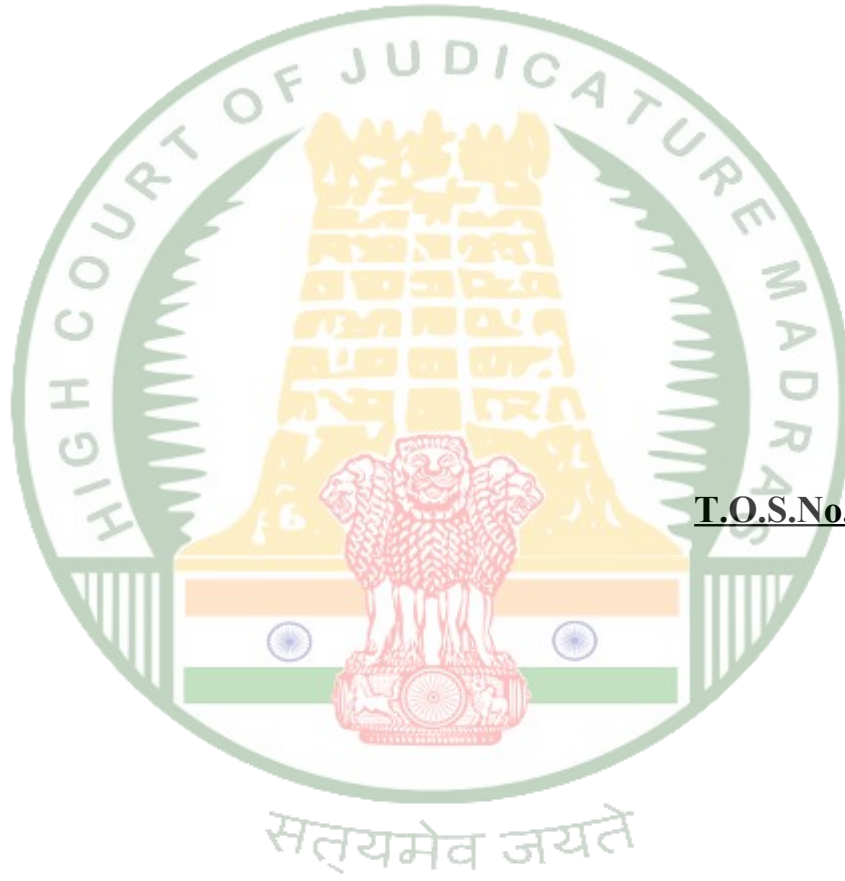
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N.SATHISH KUMAR, J.

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