

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 14TH DAY OF DECEMBER 2020

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

O.P.No.880 of 2019

In the matter of Indian Succession
Act XXXIX of 1925 and

In the matter of Last Will and
Testament of Mrs.Iswaribai
Tikkamdass(Deceased)

1. Mrs.KAMALA.D WADHWA,
W/o.Late Doulatram T.Wadhwa,
Flat No.8,
3rd Floor, Plot No.170,
New No.17 ,
Old Door No.80, 2nd Street,
F Block, Anna Nagar East,
Chennai-102.

..Petitioner

2. ANIL D.WADHWA
aged 45 years,
S/o.Late Doulatram T.Wadhwa,
Flat No.8, 3rd Floor, Plot No.170,
New No.17, Old Door No.80,
2nd Street, F Block, Anna Nagar East,
Chennai-102.

(The 2nd petitioner impleaded and
as per Ord.dt.13.10.2020 in A.No.1805/2020)

..Petitioners

Original Petition praying that this Hon'ble Court may be pleased that the Letters of Administration with the Will annexed may be granted to the petitioner as the sisters in law/beneficiary / legatee under the Will of the said deceased having effect limited to the State of Tamilnadu.

This Original petition coming on this day before this Court for hearing, the Court made the followings order:-

This petition has been filed to grant of Letters of Administration in respect of the Will dated 12.04.1997 by Iswaribai Tikkamdass, the sister-in-law of the petitioner.

2. It is the case of the petitioner that Iswaribai Tikkamdass died on 10.05.1997. The petitioner is the brother's wife of the deceased. The husband of the deceased Tikkamdass predeceased the deceased. The deceased has no children. The parents of the deceased also predeceased the deceased. The husband of the deceased Tikkamdass has no Class II legal heirs. The only brother of the deceased Dowlatram T. Wadhwa who was appointed as the executor of the Will dated 12.04.1997 by the deceased Testatrix also died on 20.04.2019 without proving the said Will. The petitioner is being the wife of Dowlatram T. Wadhwa has filed this petition for Letters of Administration. The second petitioner is the son of the first petitioner.

3. On the side of the petitioners, P.W.2 was examined and the second petitioner has been examined as P.W.1 and Ex.P1 to Ex.P9 were marked.

4. P.W.1 in his evidence had narrated the averments made in the petition stating that the petitioners have filed this petition for grant of Letters of Administration in their favour in respect of the Last Will and Testament executed by the deceased Iswaribai Tikkamdass executed on 12.04.1997. Ex.P.1 is the copy of the death certificate of the deceased Testatrix Iswaribai Tikkamdass. Ex.P.1 has been filed to prove that the Testatrix Iswaribai Tikkamdass died on 10.05.1997. Ex.P.2 is the original Will dated 12.04.1997 executed by the deceased Iswaribai Tikkamdass, which is attested by two attesting witnesses namely C.N.Kumaraguru and Sailesh Chhabria. Ex.P.3 is the computer generated death certificate of Doulatram. T.Wadhwa, who died on 20.04.2019. Ex.P4 is the photocopy of the sale deed dated 26.10.1994 executed in favour of Iswaribai Tikkamdass. Ex.P5 is the affidavit of assets showing the net value of the estate of the deceased as Rs.29,98,000/-. Ex.P6 is a copy of paper publication effected in one issue of Tamil Daily “Malai Sudar” dated 14.01.2020. Ex.P7 is a copy of paper publication effected in one issue of English Daily “News Today”

5. One Sailesh, who is one of the attesting witness in the Will, was examined as P.W.2. In his evidence, he has stated that he has attested the Will as second attesting witness in the Will and one Mr.C.N.Kumaraguru, has signed as first attesting witness in the Will. He has also stated that the testatrix was in sound state of mind while executing the Will and he has also seen the testatrix signing in the Will. He has also stated that the testatrix has seen the attesting witnesses subscribing their signature in the Will. Ex.P.9 is the affidavit filed by P.W.2 in this regard. The evidence of attesting witness not only proved the execution but also attestation of the Will and there is no other material to suspect the Will.

6. 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.

7. 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 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 petitioners are further directed to render true and correct accounts once in a year.

Sd/.N.S.K.J.
14.12.2020

//Certified to be a true copy//
Dated this the day of 2020.

SU.17.12.2020 COURT OFFICER(O.S.)

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



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