

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

MONDAY, THE 12TH DAY OF OCTOBER 2020

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

O.P.No.951 of 2019

In the matter of the Indian
Succession Act XXXIX of 1925

and
In the matter of the Last Will and
Testament of K.Selvanayagi
(deceased)

M.Loganathan,
Son of Late Manicka Naicker,
aged about 59 years,
residing at New No.6/2, Old No.22/2,
Balakrishna Road, Mylapore, Chennai-600 004.

..Petitioner

Original Petition praying that this Hon'ble Court be pleased that a Letters of Administration with the Will annexed may be granted to the petitioner herein as nephew/sole beneficiary under the Will dated 25.05.2000 to have effect throughout the state of Tamilnadu.

The 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 Original Side Rules,

1956 seeking to grant of Letters of Administration in respect of the last Will

and Testament of K.Selvanayagi

2. This petition has been filed for grant of Letters Administration in respect of the Will of one K.Selvanayagi executed on 25.05.2000 in favour of the petitioner. The petitioner is the nephew of the testator. The said K.Selvanayagi died on 09.12.2013. The husband of the deceased predeceased her. The deceased had no children. The petitioner is the beneficiary under the Will of the deceased. There is no one available to be impleaded in this petition. The amount of assets which is likely to come to the petitioners hands does not exceed in the aggregate sum of Rs.40,24,000/- and the net amount of the said assets after deducting all the items, which the petitioners are by law allowed to deduct is only of the value of Rs.40,14,000/-. 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.

3. The petitioner has examined herself as P.W.1 and one of the attesting witness Mr.A.David has been examined as P.W.2 and Ex.P.1 to P.7

have been marked.

4. P.W.1 in his evidence had narrated the averments made in the petition stating that the petitioner has filed this petition for grant of Letters of Administration in his favour in respect of the Last Will and Testament executed by the deceased K.Selvanayagi executed on 25.05.2000. Ex.P.1 is the copy of the Settlement Deed dated 20.01.1975 executed in favour of the deceased K.Selvanayagi. Ex.P.2 is the original Will executed by the deceased K.Selvanayagi. Ex.P.2 shows that the deceased K.Selvanayagi executed the Will on 25.05.2000. Ex.P.3 is the computer generated death certificate of the deceased. Ex.P.3 has been filed to prove that the testator K.Selvanayagi died on 09.12.2013. Ex.P.4 is the affidavit of assets showing the net value of the estate of the deceased as Rs.40,14,000/-. Ex.P.5 and Ex.P.6 are paper publications and none objected for the same.

5. One Mr.A.David, 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 first attesting witness in the Will and one Mr.A.Rose has signed as second 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 the Will and the other attesting witness signing in the document. He has also stated that the testatrix has seen the attesting witnesses subscribing their signature in the Will. Ex.P.7 is the affidavit filed

by P.W.2 in this regard. The evidence of attesting witness not only prove the execution but also attestation of the Will. The evidence of P.W.1 and P.W.2 remains unchallenged and there is no rebuttable evidence available on record to suspect the Will.

6. In view of the above facts, I am of the view that the petitioner has proved the execution and attestation of the Will. Hence, the petitioner is entitled for the issuance of Letters of Administration in his favour.

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

12.10.2020

//Certified to be a true copy//

Dated this the th day of 2020.

su/20.10.2020

COURT OFFICER(O.S.)

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