

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.07.2020

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

O.P.No.780 of 2019

Anitha Esther Rani ... Petitioner

Vs.

Rajakumari ... Respondent

Prayer: Original Petition filed under Section 232 & 276 of Indian Succession Act Read with Order XXV Rule 5 of Original Side Rules praying that the Letters of Administration with the Original Will annexed may be granted to the petitioner as grand daughter / beneficiary under the Will of the deceased having effect limited to the state of Tamilnadu.

For Petitioner : Ms.S.Bharathi

For Respondent : Ms.Annapoorana.S

ORDER

This petition is filed for grant of Letters of Administration in respect of the Will of the deceased Testatrix, Dr.B.Lalitha.

2. The petitioner would contend that she is the grand daughter of late Dr.B.Lalitha. The respondent is the mother of the petitioner and the daughter-in-law of the deceased Testatrix. The deceased Testatrix who was a spinster had adopted the petitioner's father as her son vide adoption deed dated 24.01.1953. She had also baptised him as Joseph Chandra Babu on 11.10.1953. The Testatrix had solemnized the wedding between her adopted son and the respondent herein on 17.05.1985 and the petitioner was born out of this wedlock.

3. The petitioner would submit that her father had predeceased his mother on 29.05.2014 leaving behind him surviving the petitioner, the respondent and his mother as his legal heirs. The Testatrix who died on 14.05.2015 had executed a will on 15.03.2015 in the presence of witnesses. The Will is in the hands of the Testatrix. Therefore the petitioner has come forward with the above petition.

4. Apart from examining herself as P.W.1, the petitioner has examined one of the attesting witnesses as P.W.2. He has adduced evidence to the fact that the Testatrix was his Aunt and that she had executed the Will in his presence and the presence of the other attesting witness one T.Selwin. The attesting witness had seen Testatrix executing her Will and she in turn also saw the two of them attesting the Will, Ex.P.1. He has also adduced evidence to the effect that the Testatrix was in sound disposing state of mind.

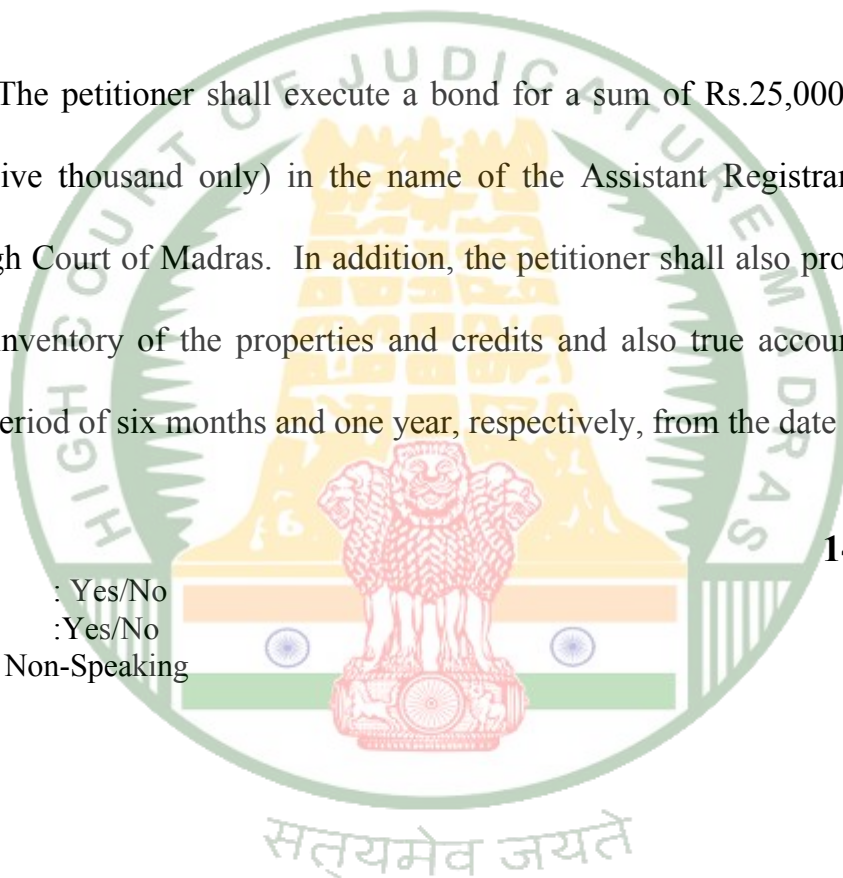
5. The respondent was examined as R.W.1 and she has adduced evidence to the effect that she has no objection to the Letters of Administration being granted in favour of the petitioner, her daughter. The Will has been marked as Ex.P.1, the death certificate of the Testatrix as Ex.P.2 and the death certificate of the petitioner's father as Ex.P.3. The documents evidencing adoption and the marriage have been marked as Ex.P.4, Ex.P.6 and Ex.P.7. The sale deeds standing in the name of the Testatrix have been marked as Ex.P.8 and Ex.P.9. The affidavit of assets has been marked as Ex.P.10. The photo copies have been marked only after comparing and verifying the same with the originals.

6. Considering the fact that the petitioner has proved Ex.P.1 Will by examining the attesting witness and considering the fact that the Will has been executed by the Testatrix in a sound disposing state of mind and the Will being a holographic Will, the Original Petition is allowed as prayed for.

7. The petitioner 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 petitioner shall also provide a full and true inventory of the properties and credits and also true accounts thereof within a period of six months and one year, respectively, from the date of grant.

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