

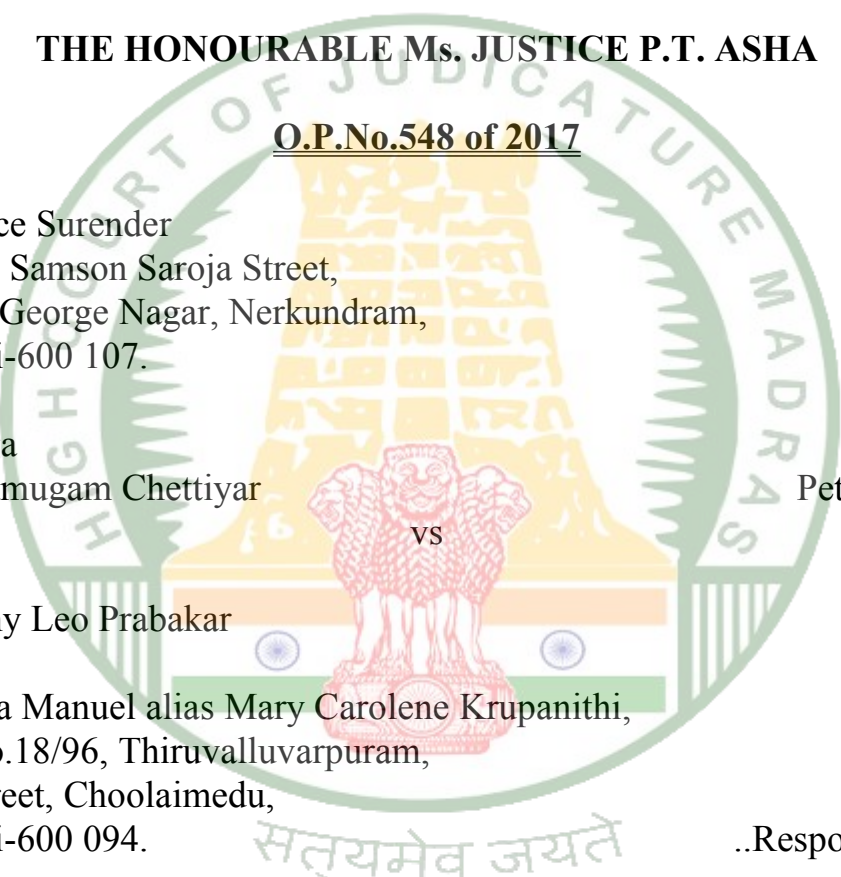
**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**Dated : 16.07.2020**

**CORAM**

**THE HONOURABLE Ms. JUSTICE P.T. ASHA**

**O.P.No.548 of 2017**

- 
- 1.Lawrence Surender  
No.146, Samson Saroja Street,  
Golden George Nagar, Nerkundram,  
Chennai-600 107.
- 2.T.Maliga  
C/o.Arumugam Chettiyar
- VS
- 1.S.Antony Leo Prabakar
2. S.Krupa Manuel alias Mary Carolene Krupanithi,  
New No.18/96, Thiruvalluvarpuram,  
First Street, Choolaimedu,  
Chennai-600 094.
- Petitioners
- ..Respondents

Prayer :- Original Petition is filed under Sections 232 & 276 of the Indian Succession Act, 1925 (Act XXXIX of 1925) Read with order XXV Rule 5 of O.S. Rules praying to grant the letters of Administration with the will dated 19.01.2010 annexed may be granted to the first petitioner as the son of the deceased testator Mr.A.Sudarsanam having effect throughout the state of Tamil Nadu.

For Petitioners : Ms. Shalini

**ORDER**

The first petitioner has come forward with the above petition praying for the grant of letters of administration with the Will dated 19.1.2010 annexed, in favour of the first petitioner having effect throughout the State of Tamil Nadu.

2. The case of the first petitioner is that the property which is the subject matter of the Will dated 19.01.2010 belonged to A.Sudarsanam, father of the first petitioner and the respondents herein.

3. The testator died on 14.08.2013 within the jurisdiction of this Court where he was originally residing and possessed the property. Prior to his death, he had executed a Will dated 19.01.2010 which was registered as

document No.2 of 2010 on the file of the District Registrar, Chennai North.

4. The testator died leaving behind him surviving the first petitioner and the respondents 1 and 2. The second petitioner has been impleaded as a party to the proceedings as she was living with the testator for a long time. The testator in his will granted a life estate in favour of his wife Leela Sudarsanam. However Leela Sudarsanam pre-deceased her husband on 8.12.2012 itself. The testator had appointed the first respondent as the executor in the will. However the first respondent has not come forward to have the Will probated, despite notices having been issued to him. The second-respondent has no objection to the grant of letters of administration in favour of the first-petitioner and she had filed the consent affidavit which is annexed to the petition. The second-petitioner was also settled with money by the first-petitioner and the second-petitioner had no objection to the grant of letters of administration in favour of the first petitioner. In these circumstances the present petition has come to be filed.

5. A perusal of the papers would indicate that the first petitioner had examined himself as PW1 and marked Exs. P1 to P14, which are detailed herein below:

| <b>S.No</b> |       | <b>Description of documents</b>                                                                          |
|-------------|-------|----------------------------------------------------------------------------------------------------------|
| 1           | Ex.P1 | The computer generated death certificate of my father A.Sundarasanam, who died on 14.08.2013.            |
| 2           | Ex.P2 | The Original will executed by my father A.Sundarsanam on 19.01.2010 registered as Doc. No.2/2010 at SRO, |

| <i>S.No</i> |       | <i>Description of documents</i>                                                                                    |
|-------------|-------|--------------------------------------------------------------------------------------------------------------------|
|             |       | Chennai North.                                                                                                     |
| 3           | Ex.P3 | Original legal Heirship Certificate dated 26.03.2014 in respect of my father A.Sudarsanam.                         |
| 4           | Ex.P4 | computer generated death certificate of my mother R.Leela, who died on 08.12.2012.                                 |
| 5           | Ex.P5 | certified copy of Sale Deed dated 20.04.1995 in favour of my father A.Sudarsanam registered as Doc.No.2197/1995 at |

| <b><i>S.No</i></b> |       | <b><i>Description of documents</i></b>                                                                  |
|--------------------|-------|---------------------------------------------------------------------------------------------------------|
|                    |       | SRO, Kodambakkam.                                                                                       |
| 6                  | Ex.P6 | Photocopy of Cheque dated 15.09.2014 bearing No.000132 issued by first respondent to second respondent. |
| 7                  | Ex.P7 | copy of Legal Notice dated 25.11.2015 sent by the second respondent counsel to first respondent.        |
| 8                  | Ex.P8 | copy of reply letter dated 31.12.2015 from the first respondent to second respondent.                   |

| <i>S.No</i> |        | <i>Description of documents</i>                                                                                                 |
|-------------|--------|---------------------------------------------------------------------------------------------------------------------------------|
| 9           | Ex.P9  | copy of Legal Notice dated 19.10.2016 sent by the second petitioner to respondents and first petitioner                         |
| 10          | Ex.P10 | Photocopy of affidavit of petitioner filed in A.No.6685/2016 before this Court dated 09.12.2016.                                |
| 11.         | Ex.P11 | consent affidavit given by the second respondent herein stating that she has no objection in grant of letters of administration |

| <i>S.No</i> |        | <i>Description of documents</i>                                                                 |
|-------------|--------|-------------------------------------------------------------------------------------------------|
|             |        | as prayed for.                                                                                  |
| 12.         | Ex.P12 | affidavit of assets showing the net value of the estate as Rs.66,65,000/-                       |
| 13          | Ex.P13 | Copy of paper publication effected in one issue of Tamil daily "Maalai Malar" dated 26.10.2017. |
| 14          | Ex.P14 | Copy of paper publication effected in one issue of English daily "News Today" dated 02.11.2017. |

6. One of the attesting witnesses R. John Bosco has been examined as PW 3 and one T.M. Vanaja Sridharan, wife of the other attesting witness K.C. Sridhar, as third-party, has been examined as PW 2.

7. From the evidence of the above witnesses, it is seen that the testator had affixed his signature in the Will in the presence of the husband of PW2 and the other attesting witness. K.C. Sridhar, the first-attesting witness and R. John Bosco, the second-attesting witness had affixed their signatures in the presence of the Testator. The Testator was in a sound and disposing state of mind when he had executed Ex.P2 will. PW3 has also identified the signature of the testator before the Registrar at the time of registration.

8. The respondents have adduced evidence as RW1 and RW2 and have given their consent to the grant of letters of administration in favour of the first-petitioner.

9. In the light of the above evidence, which clearly indicates that Ex.P2 Will has been executed by the testator in a sound and disposing state of mind and in the presence of witnesses, the petitioner has proved the execution of the Will by the testator. Therefore, the OP is allowed as prayed for. The first petitioner shall execute the necessary bond.

10. The first 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 first 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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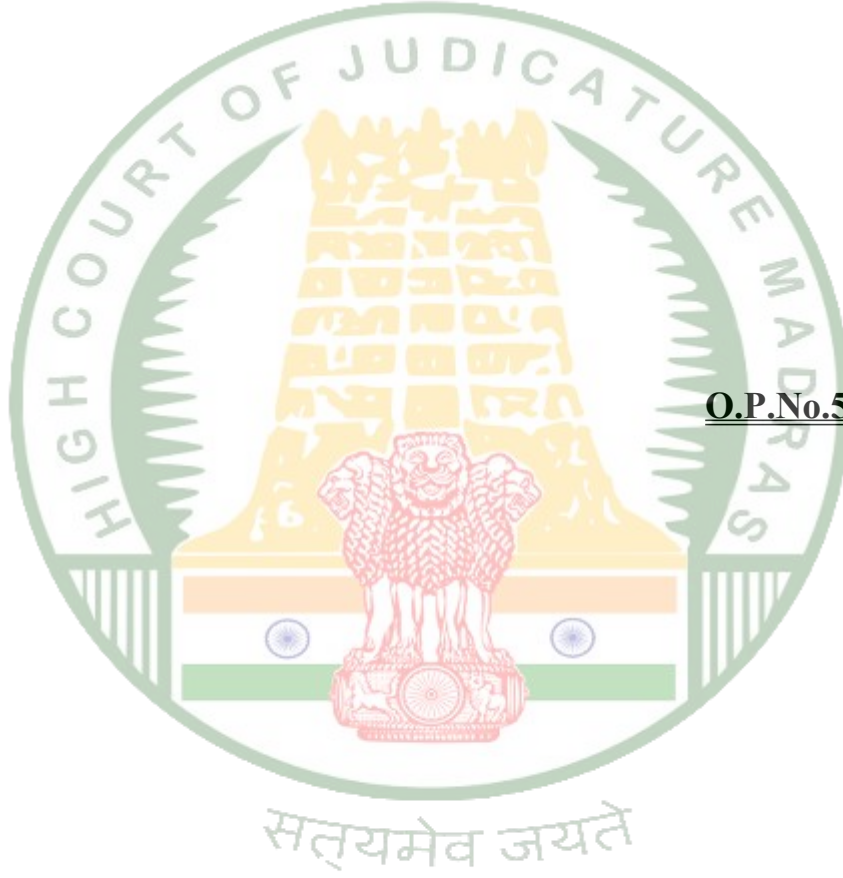
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**P.T.ASHA, J.**

**mrn**



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