

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.07.2020

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

O.P.No.888 of 2018

Mr.S.Ashok Kumar

Petitioner

vs

1.S.Ramesh Kumar

2. Mrs.Geetha Jain

..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 Letters of Administration with the Will annexed, may be granted to the petitioner as the nephew/beneficiary/legatee of the deceased having effect limited in the State of Tamil Nadu.

For Petitioner : Mr. Mr. Praveen Sethia
for K.G. Vasudevan

For Respondents: No appearance

सत्यमेव जयते

ORDER

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The above Petition is filed for grant of letter of administration with the Will annexed, to the petitioner, as the nephew/beneficiary/legatee of the deceased having effect limited in the State of Tamil Nadu.

2. The petitioner would contend that the property which forms the subject matter of the Will dated 1.11.2007 belonged to HG Sohanraj. The property in question originally belonged to the wife of the said HG Sohanraj namely Suraj Bai. She had pre-deceased the testator on 21.06.2007 and being her only legal heir Sohanraj had inherited the said property.

3. Sohanraj and his wife Suraj Bai were issueless and it was the petitioner who was maintaining the testator and who had also performed the last rites of the testator. The said Sohan Raj, in a sound and disposing state of mind had executed the Will dated 01.11.2007 bequeathing the properties on the petitioner herein. The testator had not appointed any executor. Therefore, the petitioner has come forward with the present petition.

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4. The learned counsel for the petitioner had reiterated the contentions in the Petition and had also referred to the original and

documentary evidence and prayed for the grant of the letters of administration.

5. Heard the counsel and perused the papers.

The petitioner had examined himself as PW1 and had marked Exs P1 to P18 which are herein detailed below:

<i>S.No</i>		<i>Description of documents</i>
1	Ex.P1	Copy of the Sale Deed dated 8.5.1968
2	Ex.P2	Death Certificate of HG Sampath Raj, dated 24.2.1996
3	Ex.P3	Legal Heir Certificate
4	Ex.P4	Death Certificate of Petitioner's mother dated 06.9.1999
5	Ex.P5	Copy of the Legal Heir ship certificate dated 12.01.2000 in respect of Petitioner's mother Pooribai.
6	Ex.P6	Copy of the death certificate of Testator's wife Mrs.Suraj Bai, who died on 21.06.2007.

<i>S.No</i>		<i>Description of documents</i>
7	Ex.P7	Copy of the Legal Heirship certificate dated 21.08.2007 in respect of Suraj Bai.
8	Ex.P8	The Original unregistered Will and Testament dated 01.11.2007 executed by H.G.Sohan Raj in favour of his nephew Mr.S.Ashok Kumar, which has been attested by two attesting witnesses namely 1.V.Raji and 2.Ravindra Kumar.
9	Ex.P9	Copy of the order for name transfer in the name of the Testator.
10	Ex.P10	Copy of the death certificate of the Testator H.G.Sohan Raj, who died on 10.12.2015.
11.	Ex.P11	Copy of the Metro Water Supply and Sewage Board receipt dated 14.10.2016 in the name of Testator.
12.	Ex.P12	Copy of the property tax receipt dated

<i>S.No</i>		<i>Description of documents</i>
		26.10.2016.
13	Ex.P13	Copy of the Valuation Report dated 20.07.2017.
14	Ex.P14	The consent affidavit given by the 1st Respondent.
15	Ex.P15	The consent affidavit given by the 2nd Respondent.
16	Ex.P16	The affidavit of assets showing the net value of the estate as Rs.2,63,22,337.48
17	Ex.P17	Copy of paper publication effected in one issue of Tamil daily "Maalai Sudar" dated 15.02.2019.
18	Ex.P18	Copy of paper publication effected on one issue of English daily "News Today" dated 22.02.2019.

6. A perusal of the documentary evidence would indicate that the testator had executed the unregistered Will and testament dated 01.11.2007 bequeathing the property therein on the petitioner herein. The

said Will has been marked as Ex. P8. The other legal heirs who are having caveatable interest in the above estate of the deceased, are arrayed as respondents and they have given consent Affidavits, which have been marked as Exs. P14 and P15. One of the attesting witnesses namely V. Raji has been examined as PW2. The said witness would submit that the testator had executed his last Will and testament in his presence and in the presence of the other attesting witness P. Ravindra Kumar. The testator has also witnessed the attesting witnesses subscribing their respective names and signatures to the Will. He would further state that the testator was in a sound and disposing state of mind while executing Ex.P8 Will.

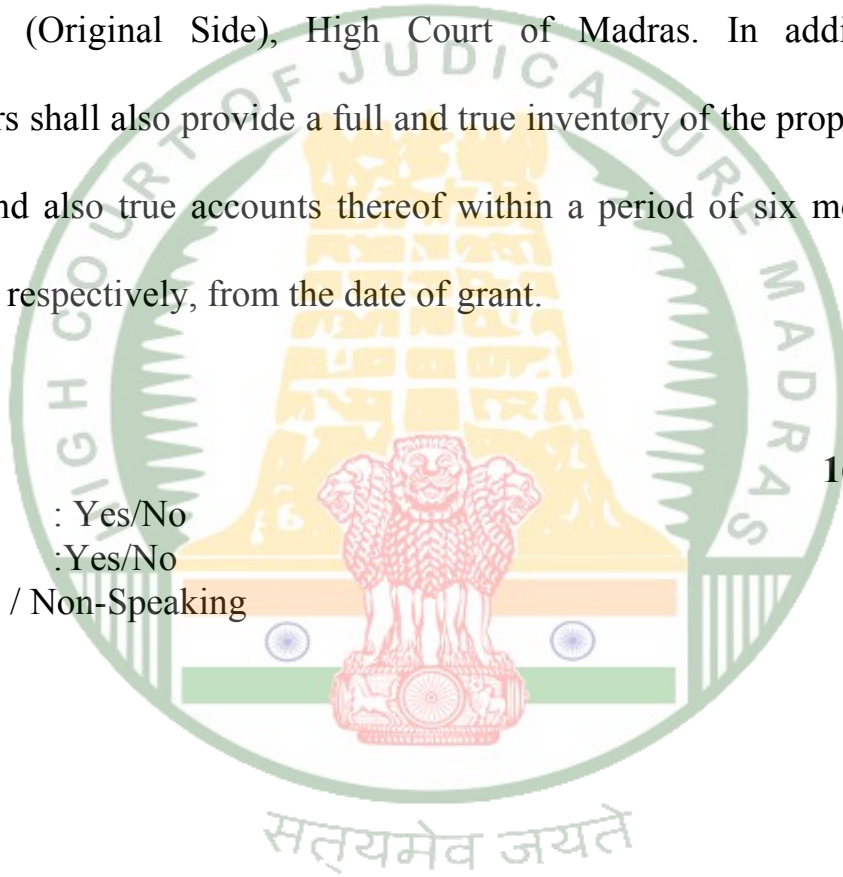
7. Considering the above documents and the fact that the petitioner has proved the Will by examining the attesting witness who has adduced evidence not only with reference to the execution of the Will EX. P8 but also regarding the mental condition of the testator. Taking into account the fact that the persons having caveatable interest in the estate of the deceased, have also given their consent for the grant of letter of administration in favour of the petitioner, this Court is inclined to allow

the OP as prayed for and accordingly the O.P is allowed as prayed for.

8. The petitioners 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 petitioners 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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Internet : Yes/No
Index : Yes/No
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