

O.P.No.297 of 2020

V.PARTHIBAN, J

This Petition has been filed under Sections 232 and 276 of the Indian Succession Act, 39 of 1925 read with Order XXV Rule 5 of the Madras High Court Original Side Rules, seeking to grant Letters of Administration with WILL annexed, to the mother and natural guardian of the petitioners, as son and daughter, beneficiaries under the Will, for the use and benefit of the minors, until they attain the age of majority to have effect limited to the State of Tamil Nadu.

2. Heard both sides and perused the materials available on record.

3. In the petition, it is stated as follows:

(a) The petitioners are the minors (son and daughter) of the deceased Dr.N.Ganeshkumar and they are represented by their mother and natural guardian Dr.Deepa Ganeshkumar. The said two minors are the sole beneficiaries under the WILL. The sole respondent is the mother of the

deceased, Dr.N.Ganeshkumar. The petitioners, their mother and the respondent alone are the legal-heirs of the deceased, Dr.N.Ganeshkumar who died on 29.08.2019 due to cancer.

(b) The saving bank Accounts stood in the Joint names of Late Dr.N.Ganeshkumar and his wife Dr.Deepa Ganeshkumar. The bank balances, investments and other movables have been taken care by the mother and natural guardian of the petitioners and there are no issues pending. The amount of assets, which are likely to come into the beneficiaries hands do not exceed, in the aggregate in sum of Rs.1,69,98,666/- and the net amount of the said assets, after deducting all items, which the petitioners are, by law allowed to deduct is of only the value of Rs.1,69,73,666/-. Dr.N.Ganeshkumar died on 29.08.2019 at Apollo Specialty Hospital, No.320, Mount Road, Chennai 600 035, whereas he was ordinarily residing at No.1, Sreshta Navdeep, No.11, North Mada Street, Srinagar Colony, Saidapet, Chennai - 600 015 and was also in possession of properties within the jurisdiction of this Court.

(c) Letter "A" is the last Will and Testament of the said deceased Dr.N.Ganeshkumar and the same was duly executed by him at Chennai on 11.01.2019 in the presence of the witnesses and registered as Document No.4 of 2019 in the office of the Sub Registrar, Adyar, Chennai in a sound disposing state of mind. No Executor was appointed under the said WILL.

(d) No application has been made to any District Court of delegate, or to any other High Court for probate of any WILL of the said deceased or for issue of Letter of Administration (LoA), with or without the Will of the deceased to his properties and his debts.

(e) Dr.Deepa Ganeshkumar, as mother and natural guardian of the petitioners 1 and 2 herein, the minor children hereby undertake to duly administer the properties and credits of the deceased, Dr.N.Ganeshkumar and in any way concerning his WILL, by paying first his debts and then the legacies therein, bequeathed so far as the assets will extend and make a full and true inventory thereof and exhibit the same in this Court within six months from the date of grant of Letters of Administration with Will

annexed to the petitioners and also to render to this Court a true account of the said properties and credits, within one year from the said date.

Hence, the petitioners have filed the present Original Petition (O.P) for the relief stated supra.

4. The mother and natural guardian of the petitioners 1 and 2 is examined as P.W.1. She reiterated the averments made in the petition and filed Exs.P-1 to P-8. Ex.P-1 is the original registered Will dated 11.01.2019 executed by late Dr.N.Ganeshkumar registered as Doc.No.4 of 2019 before the SRO, Adyar. Ex.P2 is the computer generated copy of the death certificate of her husband Dr.Ganeshkumar Nagarajan, who died on 29.08.2019. Ex.P3 is the computer generated copy of the Legal Heirship certificate dated 12.10.2019 in respect of her deceased husband N.Ganeshkumar. Ex.P4 is the photocopy of the sale deed dated 26.03.2018 and registered as Doc.No.642 of 2018 before the SRO, Adyar. Ex.P5 is the photocopy of the sale deed dated 05.10.2005 registered as Doc.No.7941 of 2005 before the SRO, Guduvancheri. Ex.P6 is the affidavit of assets showing the net value of the estate as Rs.1,68,98,666/-. Ex.P7 (series) are

the copy of paper publications effected in one issue of Tamil daily "Makkal Kural" dated 10.03.2021 and one issue of English daily "Trinity Mirror" dated 17.03.2021. Ex.P8 is the consent affidavit given by the respondent.

5. One of the attestors of the Will dated 11.01.2019 was examined as P.W.2. In his evidence, P.W.2 has stated that the testator is his son-in-law; that Ex.P1 Will was executed by his son-in-law on 11.01.2019; that he is the first attesting witness to the Will Ex.P1; that he was present and saw the Testator sign the Will- Ex.P1; that the testator was in a sound and disposing state of mind when he executed Ex.P1 Will; that Mr.Srikanth is the 2nd attesting witness to Ex.P1 Will and he was also present present at the time of execution of Ex.P1 Will and they saw each other signing Ex.P1 Will. Ex.P9- affidavit of P.W.2 was marked through him.

6. Considering the averments made in the petition and on perusing the materials available on record, this Court is satisfied that the mother and natural guardian of the minor petitioners is entitled for issuance of Letters of Administration as prayed for.

7. Accordingly, this petition is ordered. Registry is directed to issue Letters of Administration in favour of the mother and natural guardian of the minor petitioners. The mother and natural guardian of the minor petitioners is directed to duly administer the properties and credits of the deceased. The mother and natural guardian of the minor petitioners 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 mother and natural guardian of the minor petitioners is further directed to render true and correct accounts once in a year.

19.08.2021

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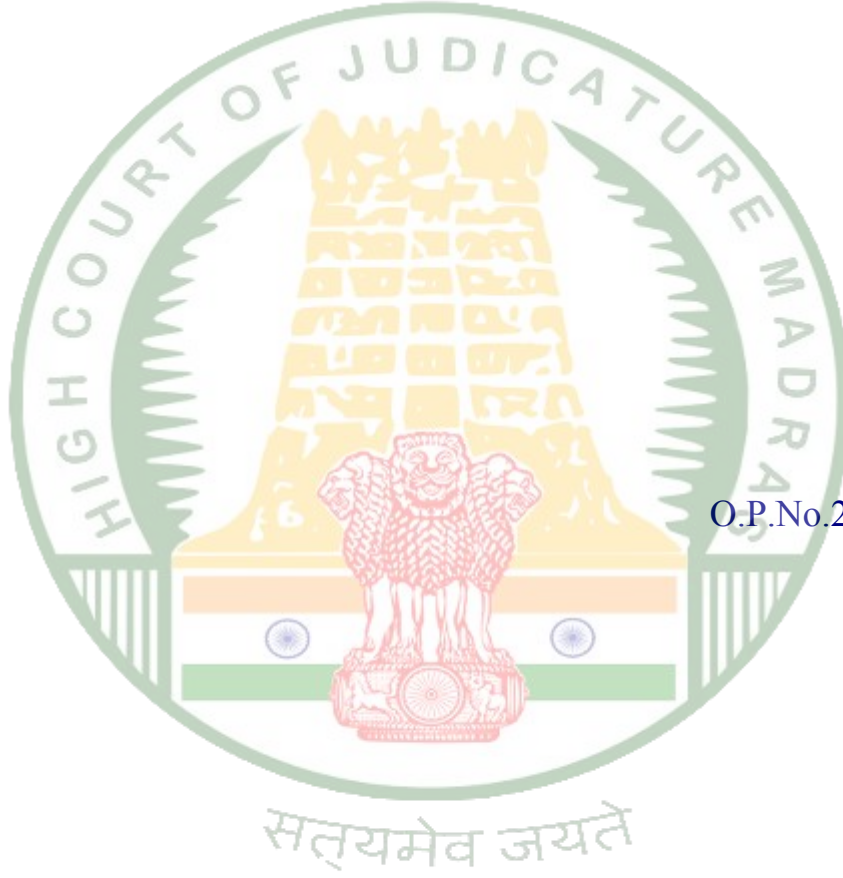
Note:

Issue order copy on 23.08.2021

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