

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

FRIDAY, THE 19TH DAY OF FEBRUARY 2021

THE HON'BLE MR. JUSTICE R.PONGIAPPAN

O.P.No.949 of 2019

In the matter of Indian Succession Act
XXXIX of 1925 and
In the matter of Last Will and
Testament of R.Saraswathi - Deceased

1. Mr.R.RATHINARAJ R. (Age 71)
S/o.Rathinam,
Residing at Old No.62/8,
New No.14/8, Shree Apartment,
Second Main Road, Raja Annamalaipuram,
Chennai-600028

2.Mr. VIKRANT RATHINARAJ(Age 40)
S/o.R.Rathinaraj
Residing at Old No.62/8, New No.14/8,
Shree Apartment, Second Main Road,
Raja Annamalaipuram,
Chennai-600028

3.Mr.R.SHAGANT(Age 35)
S/o.R.Rathinaraj
Residing at Old No.62/8, New No.14/8,
Shree Apartment, Second Main Road,
Raja Annamalaipuram,
Chennai-600028

..Petitioners

-Vs-

Residing at Old No.487, New No.29,
West Ist Street, KK Nagar,
Alavandan, Madurai, Tamilnadu-625020.

2. Mr.K.P.R.SUKUMARAN
S/o.Ramachandran
Residing at “Malar Thottam”,
No.1/156, Sardar Patel Road,
Near Perumal Koil street,
Semmancherry,
Chennai-600116.

3. Mr.K.P.R.PRABHAKARAN
S/o.Ramachandran
Residing at No.9/11, 6th Street, Nehrunagar,
TVS Nagar, Madurai-625003.

4.Mrs.NALINI
D/o.Ramachandran
Old No.6B, New No.11B,
Lalitha Shree Apartments,
Third Main Road,
Rajaannamalaipuram,
Chennai-600028.

..Respondents

Original Petition praying that this Hon'ble Court be pleased to grant Letters of Administration with the Will annexed to the petitioner as husband and Son of deceased daughter and the legal heir of the beneficiary named under the Will of the said deceased R.Sarawathi having effect Limited throughout the State of Tamil Nadu.

The Original Petition coming on this day before this court for

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, seeking to grant of Letters of Administration in respect of the last Will and Testament of Tmt. R. Saraswathi.

2. This petition has been filed for grant of Letters Administration in respect of the Will of one Tmt. R. Saraswathi executed on 05.01.2012 in favour of her daughters Mrs.R. Sasikala and Mrs.C.Thanuja. The Petitioners 1 to 3 are husband and sons of the Mrs.R.Sasikala who died on 24.01.2015. 1st Respondent is Mrs. Thanuja Chidamabaranadhan, another beneficiary in the Will of Mrs.R. Saraswathi. Respondents 2 to 4 are other sons and daughter of the Testatrix Tmt.R. Saraswathi.

3. The said Tmt.R.Saraswathi wife of Mr.K.P.Ramachandran, ordinarily resided at R.A.Puram, Chennai, died on 21.08.2013, left property in Madras, within the jurisdiction of this Court. The said Tmt.R.Saraswathi executed Will dated 05.01.2012, did not appoint any executor and hence the same was very recently found and handed over to the 1st petitioner. The amount of assets which is likely to come to the petitioner's hand does not exceed in the aggregate the sum of Rs.24,00,000/- 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.24,00,000/-, which is the petitioner's half share in the entire property.

4. Since one of the beneficiaries Tmt.R. Sasikala died on 24.01.2015, the legal heirs of the deceased, the petitioners are entitled to the half share of the entire property. The petitioners 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.

5. The first petitioner was examined as P.W.1 and the attesting witness Mr.V.Madhusudhanan was examined as P.W.2 and Ex.P.1 to P.12 were marked.

6. P.W.1 in her evidence had narrated the averments made in the petition stating that the petitioners have filed this petition for grant of

Letters of Administration in their favour in respect of the Last Will and Testament executed by the deceased Tmt.R.Saraswathi executed on 05.01.2012. Ex.P.1 is the registered Will dated 05.01.2012. Ex.P.2 is the death certificate of the Testatrix Tmt.Saraswathi. Ex.P.3 is the Legal heirship certificate dated 28.12.2018 issued in respect of Mrs. Saraswathi. Ex.P.4 is the death certificate of Mr.K.P.Ramachandran husband of the Testatrix Mrs.R. Saraswathi who died on 19.09.2014. Ex.P.5 is the death certificate of Tmt.R.Sasikala who died on 24.01.2015. Ex.P.6 is the legal heirship certificate dated 20.03.2015 in respect of Tmt.R.Sasikala. Ex.P.10 is the affidavit of assets showing the net value of the estate as Rs.24,00,000/-. Ex.P.11 series are the paper publications effected in one issue of Tamil daily dated 19.11.2020 and another one in English daily dated 26.11.2020.

7. Mr.V. Madhusudhanan, 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 second attesting witness in the Will and one Mr.G.Chithambara Nadar has signed as first 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

8. In view of the above facts, I am of the view that the petitioners have proved the execution and attestation of the Will. Hence, the petitioners are entitled for the issuance of Letters of Administration with the Will annexed in their favour.

9. Accordingly, this petition is allowed. Issue Letters of Administration in favour of the petitioners. The petitioners are directed to duly administer the properties and credits of the deceased more fully described in the schedule. The petitioners are 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 petitioners are further directed to render true and correct accounts once in a year.

WEB COPY

Sd/.R.P.A.J.
19.02.2021

//Certified to be a true copy//

Dated this the day of 2021.

SU.02.03.2021

COURT OFFICER(O.S.)

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