

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

FRIDAY, THE 22ND DAY OF JANUARY 2021

THE HON'BLE MR. JUSTICE R.PONGIAPPAN

O.P.No.337 of 2020

In the matter of Indian
Succession Act, XXXIX of
1925

and

In the matter of Last Will and
Testament of T.S.Kanaka
(deceased)

1. DR.G.VIJAYA,
W/O.MR.USHANATH SETHURAYAR,
F Block, 1106, Mantri Synergy,
OMR, Padur,
Kancheepuram-603 103

2. MRS. LAKSHMI RAGHAVAN,
W/O MR.RAGHAVAN,
Old Door No.23/B,
New Door No.6/23B,
Flat No.GH, Coral Bay Apartments,
3rd Sea Ward Road, Valmiki Nagar,
Thiruvannamiyur, Chennai – 600 041

3. DR.R.CHITRA,
W/o.Mr.Venkatesan,
No.14, Pari Street,
Teachers Colony,
Erode-638 011

4. MRS. R.ASHA,
W/o.Mr.Ramesh Kumar,
Flat No.56, Vazhudavur Main Road,

Srinivas Towers, Kathirgamam,
Thattanchavadi,
Pondicherry - 605 009

..Petitioners

-Vs-

1. MR.T.G.SUMITHRA,
W/O.THYAGARAJAN GOVINDARAJULU,
Old Door No.23/B,
New Door No.6/23B,
Flat No.GH, Coral Bay Apartments,
3rd Sea Ward Road, Valmiki Nagar,
Thiruvanmiyur, Chennai – 600 041

..Respondent

Original Petition praying that this Hon'ble Court be pleased that Letters of Administration with the Will annexed may be granted to them as NIECES of the deceased/beneficiary/Legatee under the will of the said deceased having effect limited to the State of Tamil Nadu.

This Original Petition coming on this day before this court for hearing the court made the following order:

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 Dr. T.S. Kanaga.

2. This petition has been filed for grant of Letters Administration in respect of the Will of one Dr. T.S. Kanaga executed on 02.04.2014 in favour of the petitioners. The Testatrix is the maternal aunt of the 1st and 2nd Petitioners and paternal aunt of the 3rd and 4th Petitioners. The said Dr. T.S. Kanaga died on 14.11.2018. The parents of the Testatrix, viz., Mr.T.P.Santhana Krishna Naidu and Tmt.Padmavathy were predeceased the Testatrix on 01.03.1979 and 12.01.1995 respectively. The Respondent being the sister of the Testatrix, is the only surviving legal heir. The petitioners are the beneficiaries under the Will of the deceased. There is no one available to be impleaded in this petition. The amount of assets which is likely to come to the petitioners hands does not exceed in the aggregate sum of Rs.2,00,00,000/- 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.2,00,00,000/-. 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.

3. The First Petitioner viz., Dr.G. Vijaya was examined as P.W.1 and one Mrs.A.V. Geetha, the second attesting witness was examined as P.W.2 and Ex.P.1 to P.35 have been marked.

4. 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 Dr.T.S. Kanaka executed on 02.04.2014, which was marked as Ex.P.6. Exs.P.3 and P.4 are the photocopy of the death certificates of parents of the Testatrix, Ex.P.7 is the computer generated death certificate of Dr.T.S. Kanaka to prove her death. Ex.P.31 is the affidavit of assets showing the net value of the estate as Rs.2,00,00,000/-. Ex.P.32 is the consent affidavit given by the Respondent, wherein she has given her no objection and full consent for grant of letters of Administration in favour of the petitioners. Exs.P.33 and P.34 are the paper publications dated 14.10.2020 and 21.10.2020 and none objected for the same.

5. P.W.2 Mrs.A.V.Geetha, second attesting witness in her evidence has stated that the Testatrix executed her Last Will and Testament (Ex.P.6) on 02.04.2014 in her presence and in the presence of one Mrs.M. Amutha.

She has further stated that the signatures found at the foot of every page of

the Will as that of Dr.T.S.Kanaka. P.W.2 further states that the Testatrix was in a sound and disposing state of mind, memory and understanding at the time of execution of the Will P.W.6. She has filed her affidavit in that regard which was marked as Ex.P.35.

6. 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 in their favour.

7. 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.
22.01.2021

//Certified to be a true copy//

Dated this the day of 2021

SU/10.02.2021

COURT OFFICER (O.S.)

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