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

TUESDAY, THE 21ST DAY OF SEPTEMBER 2021

THE HON'BLE MR. JUSTICE V.PARTHIBAN

O.P. No. 1011 of 2019

In the matter of Indian Succession
Act, XXXIX of 1923

and

In the matter of Certified copy of the
Last Will and Testament of
Mrs.C.Rajammal(deceased)

1. D.DEEPA
D/O.C.DURAIKANNU,
OLD NO.109, NEW NO.176,
VENKATRANGAN STREET,
TRIPPLICANE, CHENNAI-600 005

2. D.KAMALAHASAN @ KAMALA KANNAN
S/O.C.DURAIKANNU,
OLD NO.109, NEW NO.176,
VENKATRANGAN STREET,
TRIPPLICANE, CHENNAI-600 005

3. B.MOHAN
S/O.C.BABU,
OLD NO.109,
NEW NO.176 VENKATRANGAN STREET,
TRIPPLICANE, CHENNAI-600 005

4. B.MADANA GOPAL
S/O.C.BABU,
OLD NO.109,
NEW NO.176 VENKATRANGAN STREET,
TRIPPLICANE, CHENNAI-600 005



5. B.JAYANTHI

S/O.C.BABU,
OLD NO.109,
NEW NO.176 VENKATRANGAN STREET,
TRIPPLICANE, CHENNAI-600 005

6. B.UMA MAHESHWARI

S/O.C.BABU,
OLD NO.109,
NEW NO.176 VENKATRANGAN STREET,
TRIPPLICANE, CHENNAI-600 005

..Petitioners

-Vs-

1. Mrs.D.VARALAKSHMI

W/O.LATE MR.C.DURAIKANNU,
OLD NO.109, NEW NO.176,
VENKATRANGAN STREET,
TRIPPLICANE, CHENNAI-600 005

2.Mrs. SAVITHRIAMMAL

W/O.LATE C.BABU,
OLD NO.109, NEW NO.176,
VENKATRANGAN STREET,
TRIPPLICANE, CHENNAI-600 005

3. Mrs.DHANALAKSHMI

W/O.GOPAL PILLAI,
OLD NO.109, NEW NO.176,
VENKATRANGAN STREET,
TRIPPLICANE, CHENNAI-600 005

4. CHANDRASEKAR

S/O.GOPAL PILLAI,
OLD NO.109,
NEW NO.176 VENKATRANGAN STREET,
TRIPPLICANE, CHENNAI-600 005

5. DAMODHARAN

S/O.GOPAL PILLAI,
OLD NO.109,



NEW NO.176 VENKATRANGAN STREET,
TRIPPLICANE, CHENNAI-600 005

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6. HARIKRISHNAN
S/O.GOPAL PILLAI,
OLD NO.109,
NEW NO.176 VENKATRANGAN STREET,
TRIPPLICANE, CHENNAI-600 005

7. VANITHA
D/O.GOPAL PILLAI,
OLD NO.109, NEW NO.176 VENKATRANGAN STREET,
TRIPPLICANE, CHENNAI-600 005

8. BABYAMMAL
D/O.CHINNASAMY,
NO.17, SUNYAVAR CHETTY STREET,
TRIPPLICANE, CHENNAI-600005.

9. NAYANA SUNDHARI
D/O.CHINNASAMY
NO.110/2, VR PILLAI STREET,
TRIPPLICANE, CHENNAI-600005.

..Respondents

Original Petition praying that this Hon'ble Court be pleased to grant Letters of Administration with the Will annexed of the properties and credits of deceased to the petitioners being the Grand Children of Mrs. C.Rajammal and beneficiaries under Will of the said deceased and to have the effect limited to the State of Tamilnadu.

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



Succession Act read with Order XXV Rule 5 of the Original Side Rules for grant of Letters of Administration in respect of the last Will and Testament of C.Rajammal dated 08.02.2007, in favour of the petitioners as the beneficiary under the Will, having effect throughout the State of Tamil Nadu and limited to the properties mentioned in the Affidavit of Assets.

2. Heard the learned counsel appearing for the parties and perused the materials available on record.

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

(a) Mrs.C.Rajammal ordinarily resided at No.109, New No.176, Venkatrangan Street, Triplicane, Chennai 600 005 and she died on 25.09.2009. The petitioners are the grand children of the deceased. The respondents are the daughters, daughter-in-laws and the other grand children of the deceased. The petitioners and the respondents are the legal heirs of the deceased. The deceased C.Rajammal, at the time of her death, had left the immovable properties morefully described in the Schedule, in the State of Tamil Nadu within the jurisdiction of this Court.

(b) As per the Will dated 08.02.2007, the deceased bequeathed the



extent of 684 sq.ft and common pathway to an extent of 96 sq.ft in Survey No.O.S.No.2588, RS No.1526/4, Triplicane, Chennai, to the petitioners 1 and 2 and the deceased bequeathed the land and building comprised in Door No. Old No.109, New No.176 to an extent of 900 Sq.ft comprised in Survey No.O.S.No.2588, RS.No.1526/4, Triplicane, Chennai, to the petitioners 2,4,5 and 6.

(c) The last Will and Testament of the said deceased had been traced out at her residence in the address mentioned above, immediately after her death. Hence, this petition has been filed within the time of limitation.

(d) The said Will was duly executed at Chennai on 08.02.2007 in the presence of witnesses whose names appear at the foot thereof. The said Will is a registered Will. No executor has been appointed under the said Will.

(e) The present petition is concerned only with respect to the properties described in the Affidavit of Assets, left by the deceased and the same is situated within the jurisdiction of this Court.

(f) The petitioners are the legatees under the Will, for which the present grant of Letters of Administration had been sought.



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(g) The amount of assets which is likely to come into the hands of the petitioners, does not exceed in aggregate the sum of Rs.85,00,000/- and the net amount of the said assets after deducting all items which the petitioners by law are allowed to take, is of the value of Rs.85,00,000/-.

(h) The petitioners hereby undertakes to duly administer the properties and credits of the said deceased, in any way concerning her Will, by paying first her debts, if any and then the legacies therein bequeathed so far as the assets will extend and to 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 the Will and also to render to this Court a true account of the properties and credits within one year from the said date.

(i) The petitioners are the beneficiary under the Will, relating to the property described in the Affidavit of Assets which is the subject matter of the present O.P. proceedings. As per the Will, the above property will be enjoyed by the petitioners. The respondents also have no objection whatsoever for the grant of Letters of Administration in favour of the petitioners. There is no other legal heir or next kin or other persons



(j) No application has been made to any District Court or delegate or to any other High Court for probate of any Will of the deceased or Letters of Administration with or without the Will annexed to the properties and credits.

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

4. The first petitioner, who examined herself as P.W.1, reiterated the averments made in the petition and filed Exs.P-1 to P-7. Ex.P1 is the photocopy of the death certificate the first petitioner's father C.Durai Kannu, who died on 13.05.2005. Ex.P2 is the certified copy of the Will dated 08.02.2007, executed by the first petitioner's paternal grandmother C.Rajammal, registered as Doc.No.4 of 2007 at SRO, Triplicane. Ex.P3 is the photocopy of the legal heirship certificate dated 18.08.2009 in respect of the first petitioner's father C.Durai Kannu. Ex.P4 is the computer generated death certificate of the first petitioner's paternal grandmother C.Rajammal, who died on 25.09.2009. Ex.P5 is the photocopy of the Water Tax Receipt dated 15.11.2018 in respect of the schedule mentioned property as mentioned in the petition. Ex.P6 is the affidavit of assets showing the net value of the estate as Rs.86,00,000/-. Ex.P7 are the copies of paper



02.03.2021 and one issue of English daily “Trinity Mirror” dated 10.03.2021.

5. One of the attestors of the Will dated 08.02.2007, was examined as P.W.2. In his evidence he deposed that the testatrix Mrs.C.Rajammal is his paternal grandmother. As such he is well acquainted with her. She executed her last will and testament Ex.P2 on 08.02.2007 in his presence and in the presence of Mr.P.Somasundaram. At her request, he subscribed his signature as the first attesting witness along with Mr.P.Somasundaram, who attested the will Ex.P2 as the second attesting witness in the presence of the testatrix. He saw the testatrix subscribing her signature at the foot of every page of Ex.P2 Will. All of them signed in each other's presence. The testatrix was in a sound and disposing state of mind, memory and understanding at the time of execution of Ex.P2 Will. He was also one of the identifying witnesses to the Will Ex.P2 at the time of registration of the Will Ex.P2 before the SRO, Triplicane. He filed his affidavit in this regard which is marked as Ex.P8.

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



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7. Accordingly, this petition is ordered. Registry is directed to issue Letters of Administration in favour of the petitioners. The petitioners are directed to duly administer the properties and credits of the deceased. 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.

Sd/.V.P.N.J.
21.09.2021

//Certified to be a true copy//

Dated this the th day of 2021.

SU-07.10.2021

COURT OFFICER(O.S.)

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