

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

FRIDAY, THE 26TH DAY OF FEBRUARY 2021

THE HON'BLE MR. JUSTICE R.PONGIAPPAN

O.P.No.884 of 2019

In the matter of Part X of the
Indian Succession Act XXXIX of
1925
and
In the matter of Estate of Shakila
Begum (Intestate Deceased)

Nazeer Ahmed,
S/o.Late A.Abdul Rahim,
residing at No.20/40, Ramasamy Garden Street,
Royapettah, Chennai-600 014

..Petitioner

-Vs-

1. S.SYED ALI
S/o.Syed Abdul Khader,
No.24, Old No.16,
Jawar Hussain Khan Third Street,
Royapettah, Chennai-600014.

2. SHAMSHAD BEGAUM
W/o.Kamal basha,
No.14A, 4th Main Road,
AGS Colony, Velacherry,
Chenani-600042.

3. BASHEER AHMED,
S/o.Late A.Abdul Rahim,

No.14A, 4th Main Road,
AGS Colony, Velacherry,
Chennai-600042.

..Respondents

Original Petition praying that this Hon'ble Court be pleased that Letters of administration to the property and credits of the deceased to have effect through out the State of Taminadu may be granted to the petitioner.

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 estate of the deceased Shakila Begum.

2. This petition has been filed for grant of Letters Administration in respect of the estate of the deceased Shakila Begum. The petitioner and the 3rd Respondent is brothers, 1st Respondent is the husband and 2nd Respondent is the elder sister of the deceased Shakila Begum. The deceased Shakila Begum died intestate on 24.07.2007 at Chennai leaving no issues. The parents of the deceased predeceased her. As per the Mohammadan Law, the first respondent is entitled to half share (5/10) in the estate of his wife if there are no children. In the remaining half, are divided into five shares. The brothers namely Petitioner and 3rd Respondent will take two shares each (2/10) and the sister viz., 2nd Respondent will take one share

(1/10). The deceased died intestate and though due and diligent search has been made for a Will, nothing has been found. The amount of assets which is likely to come to the petitioner hands do not exceed in the aggregate sum of Rs.25,00,000/- 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.24,99,000/-. The petitioner undertakes to duly administer the property and credits of the deceased Shakila Begum and to make a full and true inventory thereof and exhibit the same to the Court within six months from the date of grant of Letters of Administration to the petitioner and also render a true account of the said property and credits within one year from the said date.

3. Despite Notice taken by the Petitioners to the Respondents the same has been unsuccessful. Hence the Petitioner filed A.No.1651 of 2020. The Application was ordered and the Petitioner was directed to take substitute service. Accordingly, publication had been effected. Even after the paper publication none have been appeared on behalf of the Respondent. Hence, the Master has directed the Petitioner for taking substituted service with regard to objections if any, and posted the matter on 23.12.2020. None objected and after completing service evidence was completed. After completion of the evidence the same was sent to the Court for further

proceedings. On 26.02.2021 (i.e., today) when the matter was posted before this Court, printed the names of the Respondents 1 to 3 in the cause list, none have been appeared. Hence Respondents 1 to 3 are set exparte.

4. The petitioner has been examined as P.W.1 and Ex.P.1 to Ex.P.7 have been marked.

5. P.W.1 in his evidence had narrated the averments made in the petition stating that the petitioner has filed this petition for grant of Letters of Administration in favour of the petitioners in respect of the estate of the deceased Shakila Begum. Ex.P.1 is the original death certificate of Shakila Begum who died on 24.07.2007. Ex.P.2 is the computer generated death certificate of petitioner's father Mr.A.Abdul Rahim, who died on 01.05.2009. Ex.P.3 is the legal heirship certificate dated 28.05.2009 of his father Mrs.A.Abdul Rahim. Ex.P.7 is the affidavit of assets showing the net value of the estate as Rs.25,00,000/-.

6. In view of the above facts, I am of the view that the petitioner has proved their claim and hence, the petitioner 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 petitioner. The petitioner is directed to duly administer the properties and credits of the deceased more fully described in the schedule. The petitioner 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 petitioner is further directed to render true and correct accounts once in a year.

Sd/.R.P.A.J.
26.02.2021

//Certified to be a true copy//

Dated this the th day of 2021.

SU/19.03.2021 COURT OFFICER(O.S.)

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

सत्यमेव जयते

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