



O.P.No.473 of 2021

WEB COPY

O.P.No.473 of 2021

ABDUL QUDDHOSE, J.

This Petition has been filed seeking for grant of letters of administration with Will annexed.

2. The testator R.Balaraman died on 02.01.2020 leaving behind the Will dated 31.08.2018 under which, the petitioners are the beneficiaries and no executor has been appointed. The first petitioner is the daughter of the brother-in-law (wife's elder brother's daughter) and the second and third petitioners are the sons of Kanniappan, the elder brother of the testator R.Balaraman. The daughter of sister of R.Balaraman is the respondent herein.

3. B.Nagammal, the wife of the deceased R.Balaraman died on 27.02.2017 and she had no issues out of the wedlock with the deceased R.Balaraman. His parents have also predeceased him. The petitioners who are the beneficiaries under the Will have filed this petition seeking for grant of letters of administration in their favour.



O.P.No.473 of 2021

4. Before the learned Master, the first petitioner was examined as PW1.

In her deposition, she has reiterated the contents of the petition filed in support of O.P.No.473 of 2021. Through PW1, the following documents were marked as exhibits:

<i>Exhibits</i>	<i>Nature of Documents</i>
P1	Computer generated death certificate of the deceased R.Balaraman who died on 02.01.2020.
P2	Photocopy of the Sale Deed dated 17.09.1964 registered as document No.2986 of 1964 at SRO, Thyagaraya Nagar
P3	Computer generated death certificate of B.Nagammal who died on 27.02.2017
P4	Photocopy of the legal heirship certificate dated 11.09.2017 in respect of Nagammal
P5	Original Will dated 31.08.2018 executed by R.Balaraman
P6	Affidavit of assets showing the net value of the estate as Rs.59,80,000/-
P7	Consent affidavit given by the respondent stating that she has no objection in grant of Letters of Administration as prayed in this petition
P8	(series 2 Nos) The copies of paper publications effected in one issue of Tamil daily "Makkal Kural" dated 22.09.2021 and one issue of English daily "Trinity Mirror" dated 29.09.2021.

5. Under the subject Will, there are two attesting witnesses namely M.Gopalakrishnan and M.Kumaran and one of them viz., M.Gopalakrishnan was examined as a witness PW2. In his deposition, he has deposed that he knows R.Balaraman (testator) from his childhood days as he was residing opposite to his



O.P.No.473 of 2021

house. He has deposed that the Will (Ex.P5) dated 31.08.2018 was executed by R.Balaraman only in his presence and in the presence of other attesting witness, M.Kumaran. He also deposed that he subscribed his signature as the first attesting witness along with the M.Kumaran who attested (Ex.P5) the Will as the second attesting witness only in the presence of R.Balaraman. He has also deposed that he saw R.Balaraman has executed the Will (Ex.P5) by affixing his thumb impression in a sound and disposing state of mind, memory and understanding. In support of his deposition, he has also filed proof affidavit before the learned Master which has been marked as Ex.P9.

6. As seen from the evidence available on record, the testator R.Balaraman has executed a Will dated 31.08.2018 (Ex.P5) under which the petitioners are the beneficiaries. R.Balaraman died without issues and his wife B.Nagammal also predeceased him on 27.02.2017 as seen from the death certificate of Nagammal which has been marked as Ex.P3. The death certificate of R.Balaraman has also been marked as an exhibit namely Ex.P1 which confirms that he died on 02.01.2020. The legal heirship certificate of the wife of the testator Nagammal has also been marked as Ex.P4 which will confirm that the testator was



O.P.No.473 of 2021

her only legal heir and the testator died subsequent to the death of his wife Nagammal. The sale deed standing in the name of B.Nagammal, the wife of the testator which is the subject matter of Will is marked as Ex.P2. The respondent who is the daughter of the sister of the deceased testator has also filed her consent affidavit which has been marked as Ex.P7 granting her consent for grant of letters of administration in favour of the petitioners. Paper publications have also been effected in one issue of Tamil daily “Makkal Kural” dated 22.09.2021 and in one issue of English daily “Trinity Mirror” dated 29.09.2021 with regard to the subject matter of O.P.No.473 of 2021 which has been marked as Ex.P8. One of the attesting witnesses, M.Gopalakrishnan has also been examined as a witness and he has also deposed that he is well acquainted with the testator R.Balaraman from his childhood days and only in his presence and in the presence of other attesting witness, M.Kumaran, the testator had affixed his thumb impression in the subject Will. He has also deposed that only in a sound and disposing state of mind, the testator had executed the Will.

7. PW1 S.Saraswathi has also deposed that the testator knows the contents of the Will which is in English language as he knows English and he can



O.P.No.473 of 2021

read and write English and only because of his old age, he has affixed his thumb impression.

8. After giving due consideration to the pleadings and evidence available on record, this Court is of the considered view that the Will is proved by the petitioners and is inclined to grant letters of administration in favour of the petitioners as prayed for. Accordingly, this petition is allowed as prayed for.

9. Registry is directed to issue Letters of Administration in favour of the petitioners having effect limited to the Union of India, they being the beneficiaries/legatees under the Will of the deceased. As undertaken by the petitioners, the petitioners are directed to duly administer the properties and credits of the deceased 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 to make a full and true inventory thereof and exhibit the same in this Court within six months from the date of the grant of Letters of Administration with the Will annexed to the petition. 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



O.P.No.473 of 2021

Assistant Registrar (O.S.-II), High Court, Madras. As undertaken by the petitioners, the petitioners are directed to render this Court a true and correct accounts within one year from the date of grant of Letters of Administration.

16.12.2021

nl



WEB COPY



O.P.No.473 of 2021

ABDUL QUDDHOSE, J.

nl

O.P.No.473 of 2021

16.12.2021