



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

WEDNESDAY, THE 27TH DAY OF OCTOBER 2021

THE HON'BLE MR. JUSTICE V.PARTHIBAN

O.P.No.459 of 2018

In the matter of Indian Succession
Act XXXIX of 1925
and
In the matter of the Last Will and
Testament of the Mr.S.Ramesh-
Deceased

1. MRS.ASHA BOAZ RAMESH
W/o.Late Mr.S.Ramesh

2. MS.DIYA GRACE RAMESH
D/o.Late Mr.S.Ramesh

3. MINOR YUVAN BOAZ RAMESH
S/o.Late Mr.S.Ramesh,
Represented by his mother and legal guardian
appointed in OP.858/2017
Mrs.Asha Boaz Ramesh

all the above are residing at No.14,
Sunrise Avenue, Neelankarai,
Chennai-600 115.

..Petitioners

-Vs-

MISS.R.SAHANA,
D/o.Late Mr.S.Ramesh,
Residing at
F-13, Block B, Jains Sagarika, No.67/99,
Sathya Dev Avenue,
MRC Nagar, R.A.Puram,
Chennai-600 028.

..Respondent



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Original Petition praying that this Hon'ble Court be pleased:

(i) That Letters of administration may be granted to the 1st and 2nd petitioners as wife and children/beneficiaries under the Will of the deceased having effect, throughout the territory of India.

(ii) Letters of Administration may be granted to the 1st petitioner as the legal guardian of the 3rd petitioner until he attains the age of majority.

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 for grant of Letters of Administration in respect of the last Will and Testament of Mr.S.Ramesh dated 12.03.2012, 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 petitioners and perused the materials available on record.

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

(a) Mr.S.Ramesh ordinarily resided at No.14, Sunrise Avenue,



Neelankarai, Chennai-600 115 and died on 06.05.2014. The petitioners are the wife and the children of the deceased. The respondent is the daughter of the first wife of the deceased. The deceased and his first wife got divorced in O.P.No.1373 of 1996 dated 07.05.1997. Therefore, they are the legal heirs of the deceased. The deceased Mr.S.Ramesh, at the time of his death, had left the immovable properties in the State of Tamil Nadu within the jurisdiction of this Court.

(b) According to the first petitioner, she had approached the respondent for her consent in filing the present application. However after making several attempts, her efforts for reconciliation failed.

(c) The deceased bequeathed various properties in favour of the petitioners and the respondent herein, the petitioners restrict themselves in seeking letters of administration only for the properties described in the affidavit of assets which is bequeathed in favour of the petitioners alone.

(d) The said Will was duly executed on 12.03.2012 in the presence of witnesses whose names appear at the foot thereof. The said Will is an unregistered Will.

(e) By the said Will, the deceased had not appointed any executor and the petitioners are the beneficiary under the said Will. The present petition is concerned only with respect to the properties described in the Affidavit of



of this Court.

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

(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.2,29,56,178/- 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.1,60,56,178/-.

(h) The petitioners hereby undertakes to duly administer the properties and credits of the said deceased, in any way concerning his Will, by paying first his 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 properties described in the Affidavit of Assets which is the subject matter of the present O.P. proceedings. As per the Will, the above properties will be enjoyed by the petitioners. Except the petitioners and the respondent, there is no other legal heir or next kin or other persons interested to be impleaded.

(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-23. Ex.P1 is the computer generated death certificate of Mr.S.Ramesh, who died on 06.05.2014. Ex.P2 is the original Will dated 12.03.2012 executed by Mr.S.Ramesh, which has been attested by 1.Mr.R.Shankar & 2.Mr.Prathapkaran Paul. Ex.P3 is the original legal heirship certificate dated 09.07.2015 in respect of Mr.S.Ramesh. Ex.P4 is the photocopy of the construction agreement dated 16.03.2005 entered into between Mr.S.Ramesh and M/s.Ramaniyam Real Estates(P) Limited, represented by its Managing Director Mr.V.Jaggannathan. Ex.P5 is the photocopy of the sale deed dated 21.03.2005, executed in favour of Mr.S.Ramesh. Ex.P6 is the photocopy of the sale deed dated 16.03.1999 executed in favour of Mr.S.Ramesh. Ex.P7 is the photocopy of the sale deed dated 20.10.2005 executed in favour of Mr.S.Ramesh. Ex.P8 is the photocopy of the sale deed dated 13.09.2007 executed in favour of Mr.S.Ramesh, along with the



photocopy of the letter dated 22.09.2007. Ex.P9 is the photocopy of the sale deed dated 18.02.2008 executed in favour of Mr.S.Ramesh. Ex.P10 is the photocopy of the sale deed dated 07.06.2013 executed in favour of Mr.S.Ramesh. Ex.P11 is the original statement of account dated 13.04.2018 in respect of the loan account number 353301552, issued by M/s.HDFC Limited. Ex.P12 is the original statement of account dated 13.04.2018 in respect of the loan account number 353301590, issued by M/s.HDFC Limited. Ex.P13 is the affidavit of assets showing the net value of the assets as Rs.1,60,56,178/-. Ex.P14 is a copy of paper publication effected in one issue of English daily "News today" dated 25.10.2019. Ex.P15 is a copy of paper publication effected in one issue of Tamil daily "Maalai Sudar", dated 01.11.2019. Ex.P16 is a copy of paper publication effected in one issue of English daily "Trinity Mirror", dated 07.02.2020. Ex.P17 is a copy of paper publication effected in one issue of Tamil daily "Maalai Sudar", dated 19.02.2020. Ex.P18 is a copy of paper publication effected in one issue of Tamil daily "Makkal Kural", dated 09.12.2020. Ex.P19 is a copy of paper publication effected in one issue of English daily "Trinity Mirror", dated 09.12.2020. Ex.P20 is a copy of paper publication effected in one issue of Tamil daily "Makkal Kural", dated 05.08.2021. Ex.P21 is a copy of paper publication effected in one issue of English daily "Trinity Mirror", dated



Ramesh. Ex.P23 is the photocopy of the order dated 15.03.2018 passed in O.P.No.858 of 2017 by the Hon'ble High Court of Madras, appointing the first petitioner as the guardian to the third petitioner.

5. One of the attestors of the Will dated 12.03.2012 was examined as P.W.2. In his evidence, P.W.2 has stated that the Will dated 12.03.2012, shown to him is the Will executed by Mr.S.Ramesh. He know Mr.S.Ramesh very well. Mr.S.Ramesh executed this Will and signed at the foot of every page of it in his presence and also in the presence of the other witness Mr.R.Shankar. He saw Mr.S.Ramesh signing the Will dated 12.03.2012. He identify the signature found at the foot of the every page of the Will Ex.P2 as that of Mr.S.Ramesh. The signature at the column of the second attesting witness is his signature. He identify the signature found at the column of the first attesting witness as that of Mr.R.Shankar. Mr.S.Ramesh was in a sound and disposing state of mind at the time of execution of the Will dated 12.03.2012. They subscribed their signatures as witnesses to the Will dated 12.03.2012 at the request of Mr.S.Ramesh and Mr.S.Ramesh had seen them signing the Will as witnesses. He filed his affidavit in this regard which is marked as Ex.P24.

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.

7. Accordingly, this petition is ordered. Registry is directed to issue Letters of Administration in favour of the petitioners 1 and 2 and as far as the third petitioner is concerned, letters of administration is issued to the first petitioner as the legal guardian of the third petitioner. 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.
27.10.2021

//Certified to be a true copy//

Dated this the day of 2021.

SU/23.11.2021

COURT OFFICER(O.S.)

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