

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.10.2021

Coram:

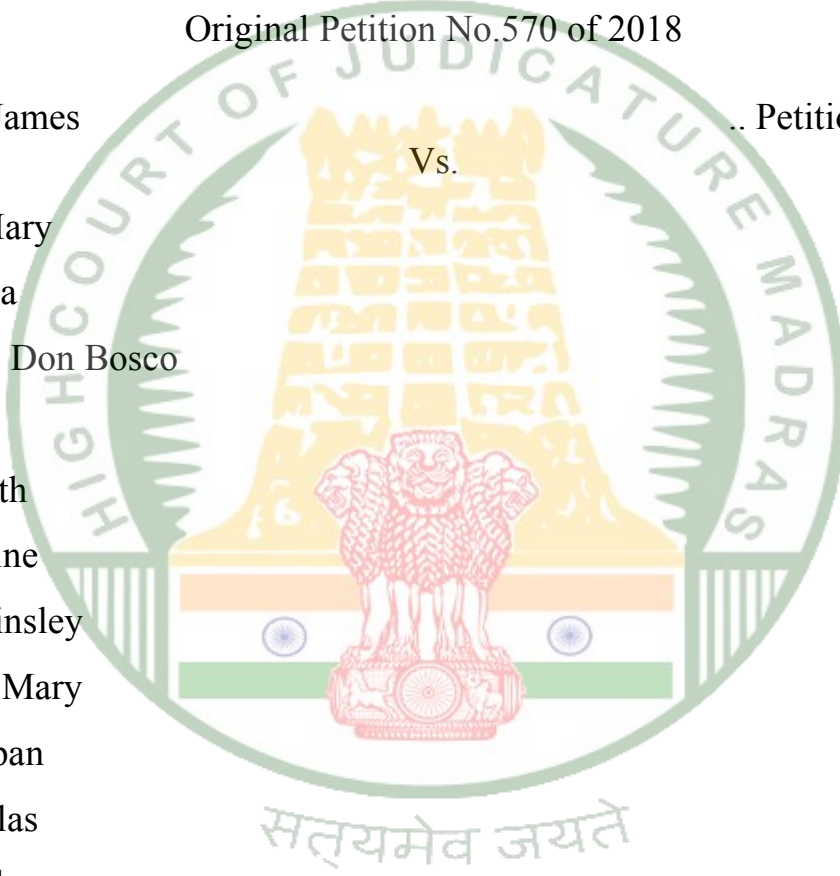
THE HONOURABLE MR.JUSTICE V.PARTHIBAN

Original Petition No.570 of 2018

William James .. Petitioner

Vs.

- 1.Rosy Mary
- 2.Issabella
- 3.John @ Don Bosco
- 4.Noyal
- 5.Elizebeth
- 6.Jacquiline
- 7.John Kinsley
- 8.Regina Mary
- 9.Arulappan
- 10.Stanislas
- 11.Daniel
- 12.Pauline Christiana
- 13.Rajan
- 14.Palraj
- 15.Mrs.Mallika



WEB COPY

16.Ms.Deepa

17.Pathima

18.Vincent

19.Noble Mary

20.Issabella

21.Sherina Rabacca

22.Jacob

23.Arulmary

.. Respondents

Original Petition (O.P) filed under Section 258 of Indian Succession Act, 1926 under Order XXV Rule 5 of the Original Sides Rules of this Court, and the petitioner has prayed that Letter of Administration with the Will annexed may be granted to him as he is one of the beneficiary of the said deceased having effect throughout the State of Tamil Nadu.

Schedule

All that piece and parcel of land house and superstructure (huts) bearing No.3, Old No.2, present No.5, Rangoon Street formerly known as Rangoon Paracheri Street, Thousand Lights, Chennai 600 006 bounded on the North by Marian portion; South by a lane and Subramaniam Loganathan's premises, West by Murugesan's brother's building and a lane leading to Pathari Road and East by a lane having O.S.No.447, R.S.No.16 comprised in collector's certificate No.3045 Sq.Ft extent 3036 sq.ft. within the Registration District of Chennai Central and Sub Registration District of Thousand Lights.

For Petitioner : M/s.J.Ravikumar and G.Rajesh

For Respondents:

Names of all respondents printed in cause list -No appearance.

ORDER

This Original Petition has been filed seeking to grant Letters of Administration in favour of the petitioner with the Will annexed to the petition, as he being the beneficiary under the Will of the deceased J.Nicholas, having effect throughout the State of Tamil Nadu.

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

(a) The deceased Mr.Nicholas died on 08.06.2001, at Chennai at his residence at Old No.2, New Door No.3, Present Door No.5, Rangoon Street, Thousand Lights, Chennai-600 006, where he was then residing and possessed of property within the State of Tamil Nadu.

(b) The writing thereto annexed and marked A is the true copy of the Will and testament of late J.Nicholas.

(c) The Will was duly executed at Madras on the 9th day of April, 2001. By the said Will, the deceased has not appointed any Executor but he

has since died, to wit, on 9th day of April, 2001. Without having proved the said Will, the Will was filed before this Court by petitioner's brother Mr.Antony Joseph Anand, seeking Letters of Administration in O.P.No.19 of 2004. Since the respondents 9 to 14 herein opposed the petition and it was converted into Suit in T.O.S.No.25 of 2010.

(d) The respondents 9 to 14 herein filed Written Statement and contested the Suit. The plaintiff therein Mr.Antony Joseph Anand examined himself as witness and also examined attesting witnesses to the Will of J.Nicholas. All the plaintiff witnesses were cross-examined by the defendants and the defendants did not come forward to let in evidence on their side. This Court was pleased to hold that the Will was proved as genuine, and ordered the above case granting Letters of Administration to the petitioner's elder brother Mr.Antony Joseph Anand by order dated 11.01.2017.

(e) Before the property could be administered by the petitioner's elder brother, Mr.Antony Joseph Anand, the Court appointed Administrator, he passed away on 18.05.2017. The said Mr.Antony Joseph Anand left behind his legal heirs and they are also included as parties (R20 to R23).

Therefore, the petitioner is seeking for the appointment as Administrator of the estate of the deceased Nicholas. The petitioner is one of the beneficiary under the Will entitled to the estate of the deceased Nicholas. Since the will of Mr.Nicholas is already proved, a new representative has to be appointed in the place of the deceased plaintiff, Mr.Antony Joseph Anand and Letters of Administration is to be granted.

(f) The original Will has been filed by Mr.Antony Joseph Anand in O.P.No.19 of 2004, renumbered as TOS.No.25 of 2010. Therefore, the petitioner is unable to produce the original Will. Hence, the petitioner is producing the true photo copy of the said Will of J.Nicholas dated 09.04.2001.

(e) The amount of assets which is likely to come to the petitioner's hands does not exceeding the aggregate sum of Rs.18,97,000/- and the net amount of the said assets, after deducting all items which the petitioner is by law allowed to deduct is only of the value of Rs.18,97,000/-

(f) The petitioner hereby undertakes to duly administer the property and credits of the said Nicholas 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 copy of Will annexed to the petitioner and also to render to this Court a true account of the said property and credits within one year from the said date.

(g) The deceased J.Nicholas, testator who was a bachelor does not have any legal heirs left behind except his brothers children the deceased has hence bequeathed his property described in the Schedule hereunder to and in favour of the petitioner and the respondents 3, 4 and 7 and Joseph Anand since deceased who are all residing at Old Door No.2, New Door No.3, Present Door No.5, Rangoon Street, Thousand Lights, Chennai-600006.

(h) No application has been made to any District Court or Delegate or to any other High Court for Probate of any Will of the said deceased or Letters of Administration with or without the copy of Will annexed to his property and credits except the T.O.S.No.25 of 2017 filed on 11.1.2017.

3. The petitioner examined himself as P.W.1 and filed Exs.P-1 to P-5.

Ex.P1 is the photocopy of the Will dated 09.04.2001 executed by J.Nicholas, registered as Doc.No.19 of 2001 at SRO, Thousand Lights (Original is not produced. The original Will said to have been filed in O.P.No.19 of 2004 in T.O.S.No.25 of 2010. Counsel for the petitioners insisted for marking of this document. Admissibility and evidentiary value of this document will be decided later). Ex.P2 is the computer generated death certificate of A.Anand, who died on 18.05.2017. Ex.P3 is the photocopy of the certified copy of the order dated 11.01.2017 passed by this Hon'ble Court in T.O.S.No.25 of 2010 (O.P.No.19 of 2004). (Marked after comparing and verifying with the certified copy. Counsel for the petitioner is not inclined to mark the certified copy of this document as exhibit. Admissibility and evidentiary value of this document will be decided later). Ex.P4 is the copy of paper publication effected in one issue of English daily "Trinity Mirror" dated 18.02.2021. Ex.P5 is the copy of paper publication effected in one issue of Tamil daily "Makkal Kural" dated 25.02.2021.

4. Heard the learned counsel appearing for the petitioner and perused the materials available on record. Though the names of the respondents have been printed in the cause list and newspaper publication has also been effected, there is no representation for the respondents, either through a counsel or in person.

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

6. Accordingly, this petition is ordered as prayed for. Registry is directed to issue Letters of Administration in favour of the petitioner having effect throughout the State of Tamil nadu, he being the beneficiary/legatee under the Will of the deceased. As undertaken by the petitioner, the petitioner is 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 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. As undertaken by the petitioner, the petitioner is directed to render this Court a true and correct accounts within one year from the date of grant of Letters of Administration.

Jvm

20.10.2021



WEB COPY

O.P.No.570 of 2018

V. PARTHIBAN, J

Jvm



Original Petition No.570 of 2018

WEB COPY

20.10.2021