

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.08.2021

Coram:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

O.P.No.476 of 2020

K.V.Narayanan, S/o Late K.V.Ragunathan
Petitioner

..

Vs.

1. K.V.Narasimhan, S/o K.V.Ragunathan

2. S.Kalyani, W/o K.V.Soundararajan

.. Respondents

Original Petition (O.P) filed under Sections 232 and 276 of the Indian Succession Act, 1925 and under Order XXV Rule 5 of the Original Side Rule, praying to grant Letters of Administration with the Will annexed to him as brother and beneficiary under the Will of the deceased having effect throughout the Chennai and State of Tamil Nadu.

For petitioner : Mr.C.kanagarajan

For respondents: Mr.P.Vijendran

ORDER

This O.P. is filed by the petitioner praying to grant Letters of Administration with the Will annexed, to him as brother and beneficiary under the Will of the deceased having effect throughout the Chennai and State of Tamil Nadu.

2. The case of the petitioner is as follows:

(a) The deceased K.V.Gopalakrishnan's writing hereunto annexed to the petitioner, is shown to the petitioner and marked with letter "A", is the last Will and Testament of the deceased K.V.Gopalakrishnan and was duly executed by him at Chennai on 19.10.2015 and registered before the Sub-Registrar of Thiyagaraya Nagar, registered as Document No.58/2015, dated 19.10.2015 in the presence of witnesses who attested at the foot thereof.

(b) The amount of asset which is likely to come to the petitioner's hand, does not exceed in the aggregate the sum of Rs.33,00,000/- (Rupees thirty three lakhs only) and the net amount of the said asset after deducting all items which the petitioner is by law, allowed to deduct, is only of the value of Rs.33,00,000/-.

(c) The deceased got married on 17.06.1991 and he divorced his wife, namely S.Revathy, under O.P.No.473 of 2009 on the file of the Additional Principal Court, on 19.02.2009. Out of their wed-lock, no issues were born to them. They left no legal heirs and no legal issues also.

(d) The deceased K.V.Gopalakrishnan died on 25.04.2020 and ordinarily resided at Flat No.4 in Ground Floor, Sai Lakshmi Flat, Door No.3/2, Rajaji Street, West Mambalam, Chennai-600 033 and at the time of death, left the property at Flat No.D, in Ground Floor, Shyam Sai Lakshmi Apartments, Built up area 1140 Sq.Ft. inclusive of common area, along with one covered Car Parking, bearing No.1 at Door No.2, as per property tax demand card old Door No.3/4, Rajaji Street, West Mambalam, Chennai-600 033, Block No.3, comprised in TS.No.21, land measuring an extent 9.36% undivided share³ out of land total extent two grounds and 555 Sq.Ft. situated at Mambalam Village, Mambalam-Guindy Taluk, Chennai District, within Chennai and within the jurisdiction of this Court.

(e) By the said Will, no executor was appointed and petitioner is the brother of the deceased.

(f) The petitioners hereby undertake to duly administer the property

and credits of the deceased and 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 grant of Letters of Administration with Will annexed to the petition 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 left the first respondent and second respondent who are brother and sister, respectively, surviving him as his next of kin according to Indian Succession Act, resided at Flat No.4, Sailakshmi Flats, Door No.3/2, Rajaji Street, West Mambalam, Chennai-600 033, within the jurisdiction of this Court on Original Side Jurisdiction.

(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 deceased or Letters of Administration with the Will or without the Will annexed to his property and credits.

Hence, for the above reasons, the petitioner has filed this petition for the relief stated supra.

3. The petitioner herein was examined as P.W.1. Ex.P-1 is the original registered Will, dated 19.10.2015 executed by the deceased K.V.Gopalakrishnan, which has been attested by two attesting witnesses, namely (i) Mr.K.V.Narasimhan (first petitioner herein) and (ii) Mrs.Kalyani Sundararajan (second petitioner herein). Ex.P-2 is the photocopy of the Family Court, order and decree, dated 19.02.2009 in O.P.No.473 of 2019 for divorce between the deceased and the said S.Revathi, along with the photocopy of the petition. Ex.P-3 is the computer generated Death Certificate of the deceased, who died on 25.04.2020. Ex.P-4 is the photocopy of the Aadhar Card of the petitioner bearing No.2038 6797 2329. Ex.P-5 is the photocopy of the sale deed dated 02.09.2011 executed by Mr.K.Prakash in favour of the deceased. Ex.P-6 is the affidavit of assets showing the net value of the Estate as Rs.33,00,000/-. Ex.P-7 (series - two numbers) is the copy of the paper publication effected in one issue of Tamil daily "Makkal Kural", dated 16.03.2021 and one issue of English daily "Trinity Mirror" dated 23.03.2021.

4. One of the attesting witness to the Will, i.e. the second petitioner

was examined as P.W.2. She deposed that the deceased is her brother. The petitioner is also the brother of P.W.2. The deceased had died and before his death, he executed a Will on 19.10.2015. She further deposed that at the time of his demise, he was residing at Sai Lakshmi Flats, Rajaji Street, West Mambalam, Chennai-600 003. She was present at the time of execution of the said Will by the deceased. Her brother (first respondent herein) was also present at the time of the execution of the said Will. After his execution of the Will, her brother (deceased) signed on the Will in their presence. The first petitioner also signed in the Will as second attesting witness along with P.W.2. At the time of execution of the Will, the deceased-testator was in a sound and disposing state of mind. P.W.2 had filed the affidavit in that regard, which is marked as Ex.P-8.

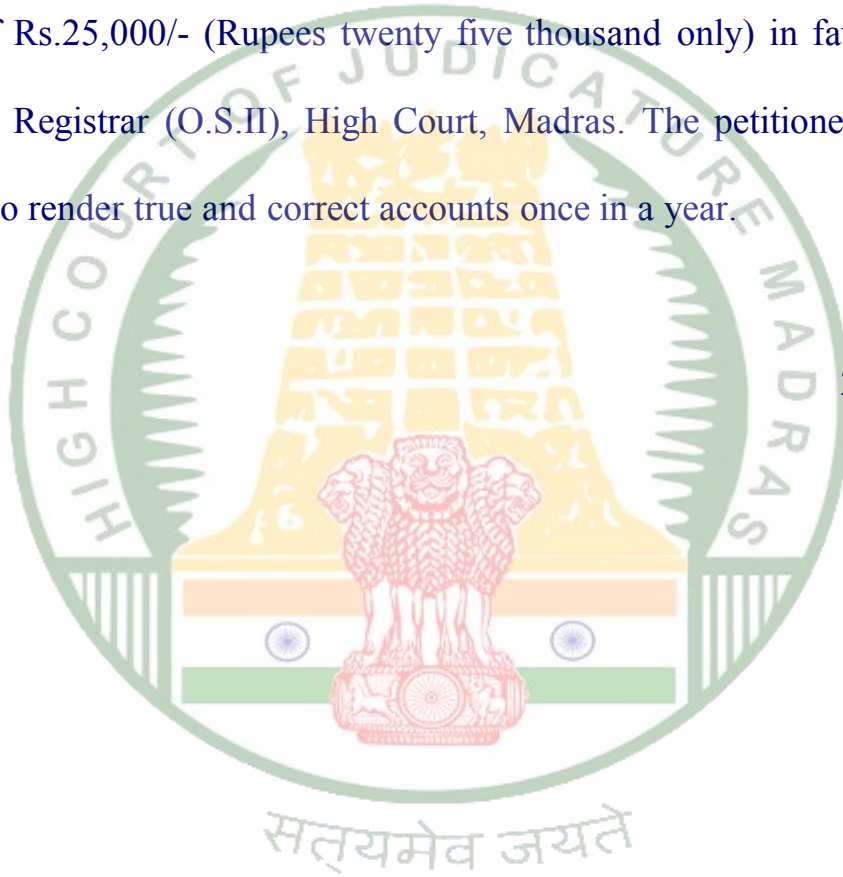
5. Heard the learned counsel appearing for the petitioner and the learned counsel for the respondents and perused the materials available on record.

6. Considering the averments made in the petition and on perusing the materials available on record, this Court is satisfied that the petitioner is 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 petitioner. The petitioner is directed to duly administer the properties and credits of the deceased as per his undertaking. 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.

25.08.2021

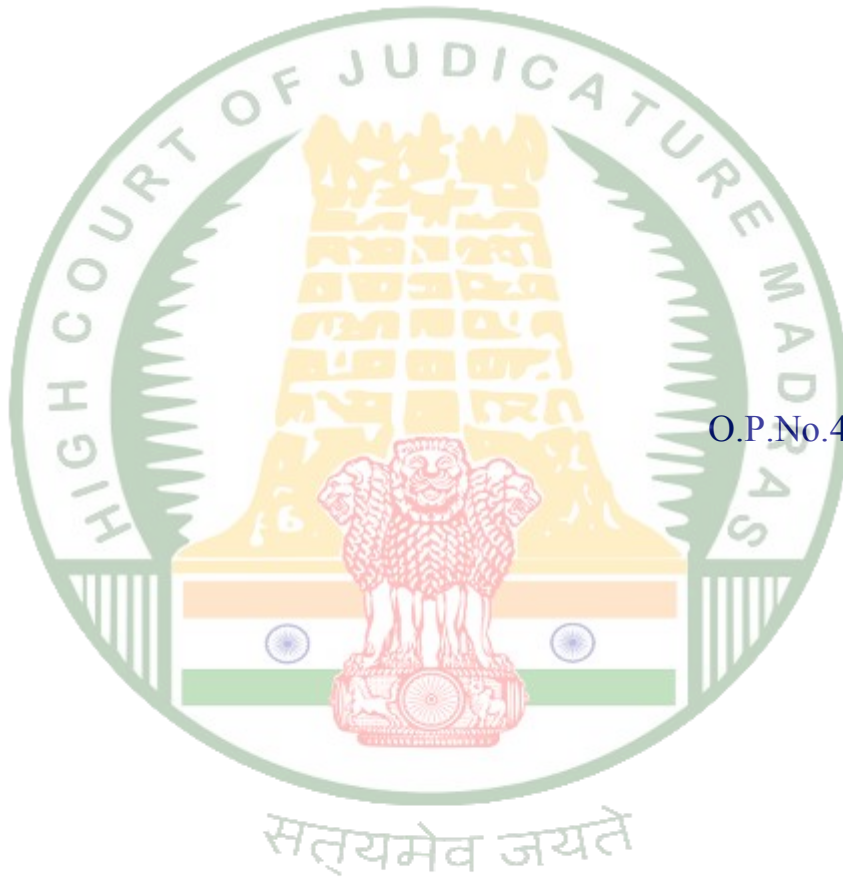
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V. PARTHIBAN, J

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