

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

FRIDAY, THE 12TH DAY OF MARCH 2021

THE HON'BLE MR. JUSTICE R.PONGIAPPAN

O.P.No.960 of 2019

In the matter of Indian Succession
Act, 1925

And

In the matter of Last Will and
Testament of G.Saraswathy Bai-
Deceased.

G.CHANDAN RAO
S/o.Late Govinda Rao,
No.53-B, 3rd Street,
Anjugam Bagar, Jafferkhanpet,
Ashok Nagar, Chennai-600083.

..Petitioner

-Vs-

V.S.SANTHA BAI
W/o.V.Subramaniam,
No.26, Vasudevan Nagar,
Purasawalkam, Chennai-600007.

..Respondent

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

Letters of Administration with the Will annexed may be granted to

G.Chandan Rao, the petitioner herein as the son/sole beneficiary under the

Will of the said deceased having effect throughout the State of Tamilnadu.

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 last Will and Testament of Mr.G. Saraswathy Bai.

2. This petition has been filed for grant of Letters Administration in respect of the Will of one Mrs.G. Saraswathi Bai executed on 31.07.1997 in favour of her son the Petitioner herein. The deceased Mrs.G. Saraswathi Bai wife of Late Govinda Rao died on 15.04.2004 at Chennai and she was ordinarily resided at Ashok Nagar, Chennai 600083. Her husband predeceased her on 18.02.1974 and left property within the jurisdiction of this Court.

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3. The schedule mentioned property was purchased by the Petitioner's father vide sale deed No.521 of 1973 dated 19.02.1973. The said Govinda Rao died intestate leaving behind the said Late Mrs.G. Saraswathi Bai, V.S. Shantha Bai (Respondent herein) and Mr.G.Chandan

Rao (Petitioner herein) and they had jointly inherited the aforesaid property

and they are in absolute possession and enjoyment of the same.

4. The deceased Mrs.G. Saraswathi Bai had bequeathed her respective 1/3rd share over the schedule mentioned property by executing a Will dated 31.07.1997 in favour of the petitioner/her son. In the Will she had not appointed any executor thereof, the petitioner alone is the beneficiary under the Will. The Respondent Mrs.Shantha Bai had already executed a Release Deed in favour of the Petitioner, releasing her respective 1/3rd share and rights over the schedule mentioned property.

5. At the time of her death the Testatrix disclosed that she has bequeathed the schedule mentioned property through a Will in favour of the Petitioner. But she did not disclose that where she had kept the Will. After her death the petitioner could traced the Will at the time of cleaning the cupboard, he found one plastic bag contained the Will was found on 26.4.2019, immediately the petitioner find this petition.

6. Except the petitioner and respondents no one available to be impleaded in this petition. The amount of assets which is likely to come to the petitioner's hand does not exceed in the aggregate sum of Rs.13,40,000/-

and the net amount of the said assets after deducting all the items, which the

petitioner is by law allowed to deduct is only of the value of Rs.13,40,000/- . The petitioner hereby undertakes to duly administer the specified property and credits of the deceased in any way concerning her Will by paying the debts first and then the legacies therein bequeathed so far as the assets will extend and to make full and true inventory thereof and exhibits the same in this Court within the six months from the date of the grant of a Letters of Administration with the Last Will annexed to the petition and also to render to this Court a true account of the said property within one year from the said date.

7. The petitioner has examined himself as P.W.1, and Ex.P.1 to Ex.P.8 were marked through him. P.W.2 the attesting witness Mr.Parasurama Rao has been examined as P.W.2 and Ex.P.9 has been marked through the witnesses.

8. 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 his favour in respect of the Last Will and Testament executed by the deceased Mrs.G. Saraswathi Bai executed on 31.07.1997.

The said Will is marked as Ex.P.1. Ex.P.2 is the original death certificate of Mrs. Saraswathi Bai, who died on 15.04.2014. Ex.P.3 is the photocopy

of the Legal Heir ship Certificate dated 11.06.2004 in respect of Mrs.Saraswathi Bai. Ex.P4 is the computer generated death certificate of Mr.R.C.Gonvinda Rao, father of the Petitioner, who died on 18.02.1974. Ex.P.5 is the photocopy of the Release Deed dated 23.07.1997 by the Respondent Mrs.V.S.Santha Bai, who is sister of the Petitioner. Ex.P.7 is the affidavit of assets showing the net value of the estate. Exs.P.8 series are the copy of paper publications effected and none objected for the same.

9. P.W.2 Mr.Parasurama Rao is one of the attesting witnesses in the Will. In his evidence, he has stated that the testator has executed his last Will and Testament on 31.07.1997 in his presence and in the presence of Mr.V.V.Subramanian. He subscribed his signature as the first attesting witness along with Mr.V.V.Subramanian, who attested the will as the second attesting witness in the presence of the Testator. He has also stated that the testator was in sound state of mind while executing the Will and he has also seen the testator signing the Will. He further stated that the testator has seen the attesting witnesses subscribing their signatures in the Will. The evidence of attesting witness not only prove the execution but also attestation of the Will and there is no other material to suspect the Will.

P.w.2 has filed an affidavit in this regard which was marked as Ex.P.9.

10. In view of the above facts, I am of the view that the petitioner has proved the execution and attestation of the Will. Hence, the petitioner is entitled for the issuance of Letters of Administration in his favour.

11. 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.
12.03.2021

//Certified to be a true copy//

Dated this the _____ day of _____ 2021.
SU.17.04.2021 _____
COURT OFFICER(O.S.)

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