

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.10.2021

Coram:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

Original Petition No.579 of 2020

R.Vaumsi Krishna .. Petitioner

Vs.

1.T.M.Ramana Rao. S/o. Late T.N.Madanagopal

2.Sruthi, D/o. Late Dr.S.Rajender .. Respondents

Original Petition (O.P) filed under Sections 232 and 276 of the Indian Succession Act, 1925 read with Order XXV Rule 5 of the Original Side Rules of this Court, and the petitioner prays that Letters of Administration with the Will annexed may be granted to him as the grandson/Legatee/Beneficiary of the said deceased T.N.Madanagopal, to have effect limited to the State of Tamil Nadu.

Schedule

All that house and ground bearing Door Old No.2, and New No.3, Corporation Colony, Arcot Road, Kodambakkam, Chennai-600 024, comprised in Survey No.33/part, T.S.No.2/2, Block No.45, Puliyur Village, bounded on the

North by : Survey No.33/part, Plot of Corporation Power House

South by : 40 Feet Road

East by : House bearing Old Door No.3 and New No.5, belonging to Shankar Rao and on the

West by : Plot No.1, House belonging to Ramamurthy,

Measuring East to West 40 Feet on both sides, North to South 90 feet on both sides, in all measuring a total extent of 3600 Square feet or thereabouts and situated within the Registration Sub District of Kodambakkam and in the Registration District of Central Chennai.

For Petitioner : M/s.S.Vijay Anand, N.Sivakumar and
T.Vanitha Sri Rohini Devi

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/legatee under the Will of the deceased T.N.Madanagopal, having effect throughout the State of Tamil Nadu.

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

2.1. The Petitioner is the beneficiary in respect of the will dated 14.05.2007 executed by his deceased grandfather Mr. T. N. Madanagopal and as such the Petitioner herein acquired the property stated in the Will dated 14.05.2007.

2.2. The Petitioner states that the first respondent is his uncle and the Second Respondent is his own sister. The Petitioner's grandmother Mrs. T. M. Kamala Devi who was ordinarily residing at Old No.2, New No.3, Corporation Colony, Arcot Road, Kodambaldam, Chennai-600 024, died intestate on 24/07/2020 The Petitioner's father Dr. S. Rajender also died intestate on 28/02/1991 at Coimbatore. Likewise the Petitioner's mother Mrs. R. Sarala died intestate on 27/10/1993 at Coimbatore. The death certificates of the above said Petitioner's grandmother, father and mother are filed as supporting documents with this Petition.

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2.3. The Petitioner states that his grandfather, the deceased Mr. T. N. Madana Gopal, was ordinarily residing at Old No.2, New No.3, Corporation

Colony, Arcot Road, Kodambakkam, Chennai-600 024, which is within the jurisdiction of this Hon'ble Court. The said Mr. T. N. Madanagopal died on 07-10-2017 at No.3, Corporation Colony, Arcot Road, Kodambakkam, Chennai-600 024. The death certificate of Mr. T. N. Madanagopal is filed as one of the documents along with this petition. The said T. N. Madanagopal died on 07-10-2017 leaving behind his wife T. M. Kamal Devi (deceased), his son T. M. Ramana Rao (First Respondent) and his daughter Dr. Sarala (deceased) as his legal heirs. The wife of the deceased Mr. T. N. Madanagopal namely Mrs. T. M. Kamala Devi died on 24/07/2020 at Kodambakkam, Chennai. The daughter of the deceased Mr. T. N. Madanagopal namely Dr. Sarala died on 27/10/1993 at Coimbatore. The death certificates of the said Mrs. T. M. Kamala Devi and Dr. Sarala are also annexed herewith as one of the documents along with this Petition. The Parents of the Testator had also predeceased him.

2.4. The Petitioner states that during his life time, the said T. N. Madanagopal executed a Will dated 14.05.2007 at Old No.2, New No.3, Corporation Colony, Arcot Road, Kodambakkam, Chennai-600 024 and

registered the said Will before S.R.O., Kodambakkam in Document No.63/Book -11112007. The property described in the Schedule of the Will dated 14.05.2007 is a property consist of house and ground of an extent of 3600 square feet, comprised in Survey No.33/Part, T.S.No.2/2, Block No.45, Puliyur Village, bearing Door Old No.2 and New No.3, Corporation Colony, Arcot Road, Kodambakkam, Chennai-600 024, more fully described in the Schedule hereunder. The said property, more fully described in the Schedule hereunder was purchased by the deceased Mr. T. N. Madanagopal out of his self earned funds from Corporation of Madras in and by Sale Deed dated 27.07.1962 and registered as Document No.2353 of 1962, of Book I, Volume 268, Pages 491 to 498 in the S.R.O., T. Nagar and owned and possessed with absolute rights till his demise.

2.5. The Petitioner states that by the above said registered Will dated 14.05.2007, the above said deceased Mr.T.N. Madanagopal had bequeathed the above said entire property, more fully described in the Schedule hereunder to R. Vaumsi Krishna, the Petitioner herein subject to the life time enjoyment of T. M. Kamala Devi, wife of the testator Mr. T. N.

Madanagopal and grandmother of the Petitioner herein. Subsequent to the demise of Mr. T. N. Madanagopal, the testator of the Will dated 14.05.2007, the above said T.M.Kamala Devi, wife of the testator Mr.T.N.Madanagaopal and grandmother of the petitioner herein had executed a Release Deed dated 29.12.2017 in favour of the petitioner herein and registered the same before the S.R.O. Kodambakkam in Document No.5052/2017 and thereby released and relinquished her life time interest and demand over the said property, more fully described in the schedule.

2.6. The Petitioner states that the deceased had executed many previous wills namely (1) Will dated 22.10.1984 and registered as Document No.67/1984 of Book 3, Volume 27 Pages 109 to 111 in the office of the Sub Registrar, Kodambakkam (2) Will dated 14.10.1999 and registered as Document No.110/1999 of Book 3 Volume 95 Pages 37 to 39 in the office of the Sub Registrar, T. Nagar (3) Will dated 21.11.2002 and registered as Document No.146/2002 of Book 3 Pages 1 to 5 in the office of the Sub Registrar, Kodambakkam (4) Will dated 05.01.2004 and registered as Document No.1/2004 of Book 3 Pages 1 to 5 in the office of the Sub

Registrar, Kodambakkam (5) Will dated 21.04.2004 and registered as Document No.470 of 2004 of Book 3 Pages 1 to 5 in the office of the Sub Registrar, Kodambakkam but all the above said 5 Wills were duly revoked by the Testator Mr. T. N. Madanagopal by executing the last Will dated 14.05.2007 and registered as Document No.63/Book-III/2007, on the file of the Sub Registrar Office at Kodambakkam.

2.7. The writing hereunto annexed, now shown to the petitioner and marked with letter A, is the last Will and testament of the said T. N. Madanagopal and was duly executed by him at Door Old No.2 and New No.3, Corporation Colony, Arcot Road, Kodambakkam, Chennai-600 024 on 14.05.2007 in the presence of the witnesses whose names appear at the foot thereof. The Testator named his wife T. M. Kamala Devi as executor of the Will. The said T. M. Kamala Devi executed a Release Deed dated 29.12.2017 in favour of the Petitioner and registered the same before S.R.O., Kodambakkam in Document No.5052/2017 and thereby released and relinquished her life time interest and demand over the Schedule Property. Subsequently the said T. M. Kamala Devi who was named as only

executor in the Will dated 14.05.2007 died on 24.07.2020 and that therefore the Petitioner, who is the beneficiary of the Will has filed this Petition for Letters of Administration.

2.8. The Petitioner states that 14.05.2007, when the deceased T. N. Madanagopal executed the Will at Door Old No.2 and New No.3, Corporation Colony, Arcot Road, Kodambakkam, Chennai-600 024, one Mr. M. Balasubramaniam son of K. Munuswamy, residing at No.8, Alagiri Nagar, 4th Street, Vadapalani, Chennai-600 26 and one Mr. M. Vijaya Kumar son of C. Maduraipillai, residing at Plot No.632, 9th Sector, 47th Street, K. K. Nagar, Chennai-600 078 were present together at Door Old No.2 and New No.3, Corporation Colony, Arcot Road, Kodambakkam, Chennai-600 024 and they did then and there saw the said deceased set and subscribe his name at foot of the testamentary paper in the English Language and character hereunto annexed and marked with Letter "A" and declare and publish the same as and for his last Will and Testament. Further to that thereupon the said Witnesses Mr. M. Balasubramaniam and Mr. M. Vijaya Kumar, at the request of the said deceased T. N. Madanagopal and in

his presence and in the presence of each other all being present at the time set and subscribe their respective names and signatures at the foot of the testamentary paper as witnesses thereto. The First Attesting Witness died and his death certificate is filed along with this Petition as one of the documents to prove his death and the Affidavit of the Second Attesting Witness is filed along with this Petition to prove the execution and attestation of the Will dated 14.05.2007.

2.9. The Petitioner is the beneficiary named in the said WILL. The executor T. M. Kamala Devi who was named in the Will dated 14.05.2007 died on 24.07.2020 and hence the Petitioner, who is the beneficiary of the Will dated 14.05.2007 filed this Letters of Administration.

2.10. The Petitioner states that the amount of assets, which are likely to come into the Petitioner's hands does not exceed in the aggregating the sum of Rs. 1,68,84,000/- and the net amount of the said assets, after deducting all items which the Petitioner is by law allowed to deduct is of the value of Rs.1,68,84,000/- (Rupees One Crore Sixty Eight Lakhs Eighty Four

Thousand Only)

2.11. The Petitioner states that the Testator executed the Will dated 14.05.2007 by bequeathing / appointing the Petitioner as beneficiary subject to life time enjoyment of Testator's wife T. M. Kamala Devi. She was named as executor in the Will but on 29.12.2017, the said T. M. Kamala Devi executed a release deed and registered the same before S.R.O., Kodambakkam vide Document No.5052/2017 and thereby released and relinquished her life time enjoyment in favour of the Petitioner herein. Eventhough the said Kamala Devi executed the release deed, she was in occupation / enjoyment / possession of the schedule property. Hence the Petitioner did not wants to file Letters of Administration as he feels it would affect the said T. M. Kamala Devi sentimentally. The said T. M. Kamala Devi died on 24.07.2020. Hence the Petitioner filed this Letters of Administration after the demise of T. M. Kamala Devi. In this process, there is a delay but the said delay is neither willful nor wanton but due to above said reason of not disturbing the above said T. M. Kamala Devi, both physically and sentimentally till her demise. The Petitioner humbly prays

this Hon'ble Court to condone the delay in filing this Letters of Administration.

2.12. The Petitioner states that he has impleaded all the next of kin and other persons interested as parties/respondents. There is no other next of kin or other person to be impleaded.

2.13. The Petitioner states that no application has been made to any District Court or Delegate or to any other High Court for the probate of any Will of the said deceased or Letters of administration with or without the Will annexed of her property and credits.

2.14. That the Petitioner hereby undertakes to duly administer the property and credits of the said T. N. Madanagopal — 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 the Will annexed to

the Petitioner, and also to render to this Hon'ble Court, a true Account of the said property and credits within one year from this date.

3. The petitioner examined himself as P.W.1 and filed Exs.P-1 to P-11.

3.1. Ex.P1 is the original Will dated 14.05.2007 executed by T.N.Madanagopal, which has been attested by two attesting witnesses namely 1.Mr.M.Balasubramaniam and 2.Mr.M.Vijaya Kumar.

3.2. Ex.P2 is the computer generated death certificate of T.N.Madanagopal, who died on 07.10.2017.

3.3. Ex.P3 is the photocopy of the Release Deed dated 29.12.2017 executed by T.M.Kamala Devi in favour of R.Vaumsi Krishna (marked after comparing and verifying with the original. Counsel for the petitioner is not inclined to mark the original document as exhibit. Admissibility and evidentiary value of this document will be decided later).

3.4. Ex.P4 is the computer generated death certificate of T.M.Kamala Devi, who died on 24.07.2020.

3.5. Ex.P5 is the photocopy of the death certificate of Dr.Rajender, who died on 28.02.1991 (Marked after comparing and verifying with the original. Counsel for the petitioner is not inclined to mark the original document as exhibit. Admissibility and evidentiary value of this document will be decided later).

3.6. Ex.P6 is the photocopy of the death certificate of Dr.Sarala, died on 27.10.1993 (Marked after comparing and verifying with the original. Counsel for the petitioner is not inclined to mark the original document as exhibit. Admissibility and evidentiary value of this document will be decided later).

3.7. Ex.P7 is the photocopy of the Legal Heirship Certificate dated 13.12.2017 in respect of T.N.Madanagopal (Original is not produced. Counsel stated that the original is with the respondents. Counsel for the

petitioner insisted for marking of the photocopy of this document.
Admissibility and evidentiary value of this document will be decided later).

3.8. Ex.P8 is the computer generated death certificate of Balasubramaniyan, who died on 25.07.2017.

3.9. Ex.P9 is the affidavit of assets showing the net value of the estate as Rs.1,68,84,000/-.

3.10. Ex.P10 is a copy of paper publication effected in one issue of Tamil daily “Makkal Kural” dated 16.07.2021.

3.11. Ex.P11 is a copy of paper publication effected in one issue of English daily “Trinity Mirror” dated 23.07.2021.

4. One of the attestors to the Will was examined as P.W.2, namely M.Vijayakumar. In his evidence, P.W.2 has stated that on 14.05.2007, he was present together with one Mr.M.Balasubramaniyam, son of

K.Munuswamy, residing at No.8, Alagiri Nagar, 4th street, Vadapalani, Chennai-600 026 at the house of the deceased Mr.T.N.Madanagopal at Door Old No.2 and New No.3, Corporation Colony, Arcot Road, Kodambakkam, Chennai 600 024 and they did then and there saw the deceased set and subscribed his name at the foot of the testamentary paper in the English Language and character hereunto annexed and marked with the letter “A” and declare and publish the same as and for his last Will and testament. PW2 and the said M.Balasubramaniyam did at the request of the deceased and in his presence and in the presence of each other, all being present at the same time, set and subscribed their respective names at the foot of the testamentary paper as witnesses and that at the time of said deceased so subscribed his name and signature to said Will as aforesaid Mr.T.N.Madanagopal deceased was of sound and disposing state of mind, memory and understanding and to the best of my belief made and published the same of his free will and pleasure. Ex.P-12 is the affidavit filed in that regard by P.W.2.

5. 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.

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 for issuance of Letters of Administration as prayed for.

7. 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.

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20.10.2021

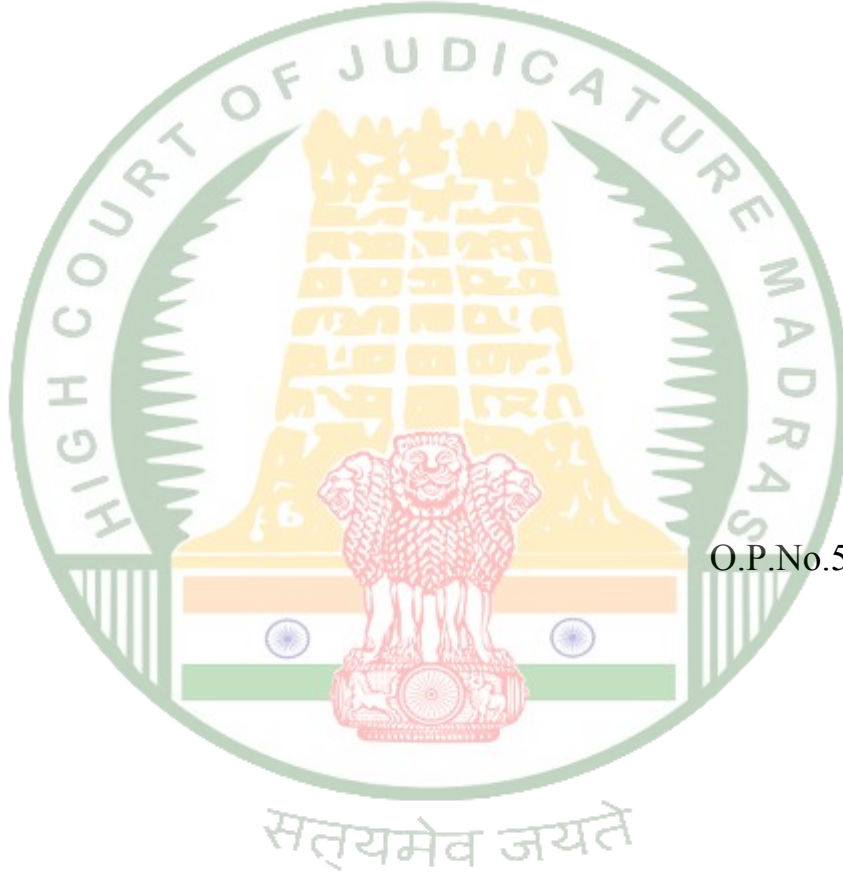


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