



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

FRIDAY, THE 06TH DAY OF AUGUST 2021

THE HON'BLE MR. JUSTICE V.PARTHIBAN

O.P.No.500 of 2020

In the matter of the Indian  
Succession Act, 1925  
and  
In the matter of the Last Will  
and Testament of Bama  
Kachirayan (deceased)

M.KACHIRAYAN  
C3, Shanthi Empress,  
165, L.B.Road, Thiruvanniyur,  
Chennai-600 041

..Petitioner

-Vs-

1. K.SARAVANAN  
8 Paul Spring Holw,  
Farmington, CT 06032, U.S.A.

2. K.VASANTHI  
68 Alder Lane,  
Basking Ridge,  
NJ 07920, U.S.A

..Respondents

Original Petition praying that this Hon'ble Court be pleased to grant  
Letters of Administration with the will dated 29.07.2020 annexed thereof to  
the first petitioner as husband/beneficiary under the will of the deceased  
having effect throughout the State of Tamil Nadu.



**WEB COPY** This Original Petition coming on this day before this court for hearing the court made the following order:

This Petition has been filed under Section 232 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 Mrs.Bama Kachirayan dated 29.07.2020, in favour of the petitioner 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 parties and perused the materials available on record.

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

(a) Mrs.Bama Kachirayan ordinarily resided at C3, Shanthi Empress, 165, L.B.Road, Thiruvanmiyur, Chennai-41 and she died on 18.08.2020. The petitioner is the husband of the deceased Mrs.Bama Kachirayan and the respondents are the son and daughter of the said deceased. The petitioner and the respondents are the legal heirs of the deceased. The parents of the deceased predeceased her. The deceased

Mrs.Bama Kachirayan, at the time of her death, had left the immovable



property at 155/6, Second Main Road, Bhuvaneshwari Nagar, Velachery, Chennai 42, in the State of Tamil Nadu, within the jurisdiction of this Court.

The movables have already been distributed in accordance with the Will.

(b) The deceased owned and possessed an immovable property in the above mentioned address, the value of which is assessed at Rs.40,00,000/-

(c) The last Will and Testament of the said deceased had been traced out at her residence in the address mentioned above, immediately after her death. Hence, this petition has been filed within the time of limitation.

(d) The said Will was duly executed at Chennai on 29.07.2020 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 petitioner is the beneficiary under the said Will. The present petition is concerned only with respect to the property described in the Affidavit of Assets, left by the deceased and the same is situated within the jurisdiction of this Court.

(f) The petitioner is 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 petitioner, does not exceed in aggregate the sum of Rs.40,00,000/- and the net amount of the said assets after deducting all items which the petitioner



by law is allowed to take, is of the value of Rs.40,00,000/-.

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(h) The petitioner hereby undertakes to duly administer the properties and credits of the said deceased, in any way concerning her Will, by paying first her 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 petitioner is the beneficiary under the Will, relating to the property described in the Affidavit of Assets which is the subject matter of the present O.P. proceedings. As per the Will, the above property will be enjoyed by the petitioner. The respondents also have no objection whatsoever for the grant of Letters of Administration in favour of the petitioner. 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 petitioner has filed the present Original Petition (O.P) for



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4. The petitioner, who examined himself as P.W.1, reiterated the averments made in the petition and filed Exs.P-1 to P-9. Ex.P1 is the original unregistered Will dated 29.07.2020 executed by Mrs.Bama Kachirayan, which has been attested by two attesting witnesses namely Mr.S.Ramesh and Mr.Suresh Kunhiraman. Ex.P2 is the computer generated death certificate of the Testatrix Bama Kachirayan, who died on 18.08.2020. Ex.P3 is the computer generated Legal Heirship Certificate dated 21.09.2020, in respect of the Testatrix Bama Kachirayan. Ex.P4 is the computer generated Property Tax receipt dated 30.03.2019, standing in the name of Bama Kachirayan. Ex.P5 is the consent affidavit given by the first respondent. Ex.P6 is the consent affidavit given by the second respondent. Ex.P7 is the affidavit of assets showing the net value of the estate as Rs.40,00,000/- Ex.P8 is the copy of paper publication effected in one issue of Tamil daily “Makkal Kural” dated 26.02.2021. Ex.P9 is a copy of paper publication effected in one issue of English daily “Trinity Mirror” dated 06.03.2021.

5. One of the attestors of the Will dated 29.07.2020 was examined as P.W.2. In his evidence, P.W.2 has stated that he knew the Testatrix Bama Kachirayan as she is the mother of his friend Saravanan. In his presence and



in the presence of Mr.Suresh Kunhiraman, the Testatrix subscribed her signature in the Will executed by her. At her request, he subscribed his signature as the first attesting witness in the Ex.P1 Will. At the time of execution, she was in sound state of mind and knowledge. He filed his affidavit in this regard which is marked as Ex.P10.

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. 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/.V.P.N.J.  
06.08.2021

//Certified to be a true copy//  
Dated this the                      day of                      2021.

SU/25.08.2021

COURT OFFICER(O.S.)