

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17.08.2021

Coram:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

Original Petition No.649 of 2020

V.Gangadaran, son of V.K.Velu Mudaliar .. Petitioner

Original Petition filed under Sections 218 and 278 of the Indian Succession Act, 1925 (XXXIX of 1925) read with Order XXV Rule 5 of the Original Side Rules of this Court, praying to grant Letters of Administration in favour of the petitioner, without Will, having effect limited to the State of Tamil Nadu.

For petitioner  Mr.V.Chanakya

ORDER

This Petition has been filed to grant Letters of Administration without the Will, to the petitioner being the brother of the deceased V.Chinnakulanthai, having effect limited to the State of Tamil Nadu.

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

(a) V.Chinnakulanthai (deceased) had died on 26.05.2008 at No.AA

66, Second Street, III Main Road, Anna Nagar, Chennai-600 040 and that she was then ordinarily residing in the said address and within the jurisdiction of this Court. She possessed immovable property within the State of Tamil Nadu and she was a spinster and her parents pre-deceased her.

(b) The deceased V.Chinnakulanthai died on account of her prolonged illness while she was under the care and protection of the petitioner. During her occupation, she had purchased the lands measuring an extent of 52 cents at Velia Nallur Village, Cheyyar Taluk, Thiruvannamalai District, comprised in Survey No.423/2 and 445/6, situated within the sub-registration District Cheyyar Joint-I from one Mr.Shanmuga Mudaliar under registered sale deed dated 17.09.1953 and the same had been registered as Document bearing No.2677 of 1953 for valid sale consideration.

(c) The deceased, on account of illness, had died on 26.05.2008, intestate, and that due and diligent search has been made for a Will, but none has been found.

(d) None of the legal heirs of the deceased were available to succeed to the estate of the deceased and the petitioner being the only brother of the

deceased, alone, is available to succeed to the estate of the deceased. The parents of the deceased, namely V.K.Velu Mudaliar (father) and Unnamalai Ammal (mother), have pre-deceased the deceased V.Chinnakulanthai in the year 2008 and the petitioner is the only surviving legal heir of the deceased V.Chinnakulanthai and is entitled to succeed to the Estate of the deceased.

(e) The petitioner is the Class-II heir of the deceased and claims to be entitled to the estate of the deceased as the legal representative. The petitioner is not a worldly wise person and the Letters of Administration without the Will had to be obtained for the assets of the deceased and has now come forward to file the present petition for the Letters of Administration with regard to the estates of the deceased.

(f) The petitioner has filed application before the Tahsildar, Egmore-Nungambakkam Taluk Office to issue the Legal Heirship Certificate of the deceased V.Chinnakulanthai on 03.08.2009 and the Tahsildar had issued letter dated 17.08.2009 in proceedings Na.Ka.No.E4/17116/2009 stating that after site enquiry, it was informed that the petitioner is the brother of the deceased and therefore, for Class-II heirs, no Legal Heirship Certificate will be issued and directed the petitioner to approach the concerned Court to get

the Succession Certificate.

(g) The deceased had left out an immovable property bearing lands measuring an extent of 52 cents situated at Velia Nallur Village, Cheyyar Taluk, Thiruvannamalai District, comprised in Survey No.423/2 and 445, situated within the Registration District of Thiruvannamalai and Registration sub-District of Joint Registrar-II, Cheyyar.

(h) The amount of assets which is likely to come to the petitioner's hand, does not exceed in aggregate the amount of Rs.95,000/- and the net amount of the said assets after deducting all items which the petitioner by law, is allowed to deduct, is only the value of Rs.95,000/- and its value is the same.

(i) The deceased has no legal heirs and that there is no person interested as party respondent or next kin or other persons interested to be impleaded in the present petition.

(j) No application has been made to any District Court or delegate or to any other High Court or for the probate of any Will of the said deceased or Letters of Administration with or without the Will annexed of the properties and credits of the deceased.

(k) The petitioner undertakes to duly administer the property and credits of the deceased and to make full and true inventory thereof and exhibit the same in this Court within six months from the date of grant of Letters of Administration without the Will to the petitioner and also to render this Court a true account of the said property and credits within one year from the said date.

Hence, the petitioner had filed the present Original Petition (O.P) for the relief stated supra.

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

4. The petitioner, who examined himself as P.W.1, reiterated the averments made in the petition and filed Exs.P-1 to P-8. Ex.P-1 is the photocopy of the Death Certificate of the petitioner's sister V.Chinnakulanthai, who died on 26.05.2008. Ex.P-2 is the photocopy of the Burial Ground Certificate issued by the Corporation of Chennai, dated 26.05.2008 in respect of the deceased sister of the petitioner. Ex.P-3 is the photocopy of the letter dated 26.06.2008 given by the State Bank of India,

Anna Nagar Branch, for payment of PPF account of the deceased sister of the petitioner in Account No.10181351683 to the petitioner. Ex.P-4 is the photocopy of the letter dated 17.08.2009 issued to the petitioner. Ex.P-5 is the photocopy of the PAN Card in respect of the deceased sister of the petitioner, bearing No.ADWPC8781F. Ex.P-6 is the Affidavit of Assets showing the net value of the estate as Rs.95,000/-. Ex.P-7 is a copy of the paper publication effected in one issue of Tamil daily "Malai Thamizhagam", dated 23.03.2021. Ex.P-8 is the copy of paper publication effected in one issue of English daily "Virtual Times", dated 30.03.2021.

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 to for issuance of Letters of Administration as prayed for.

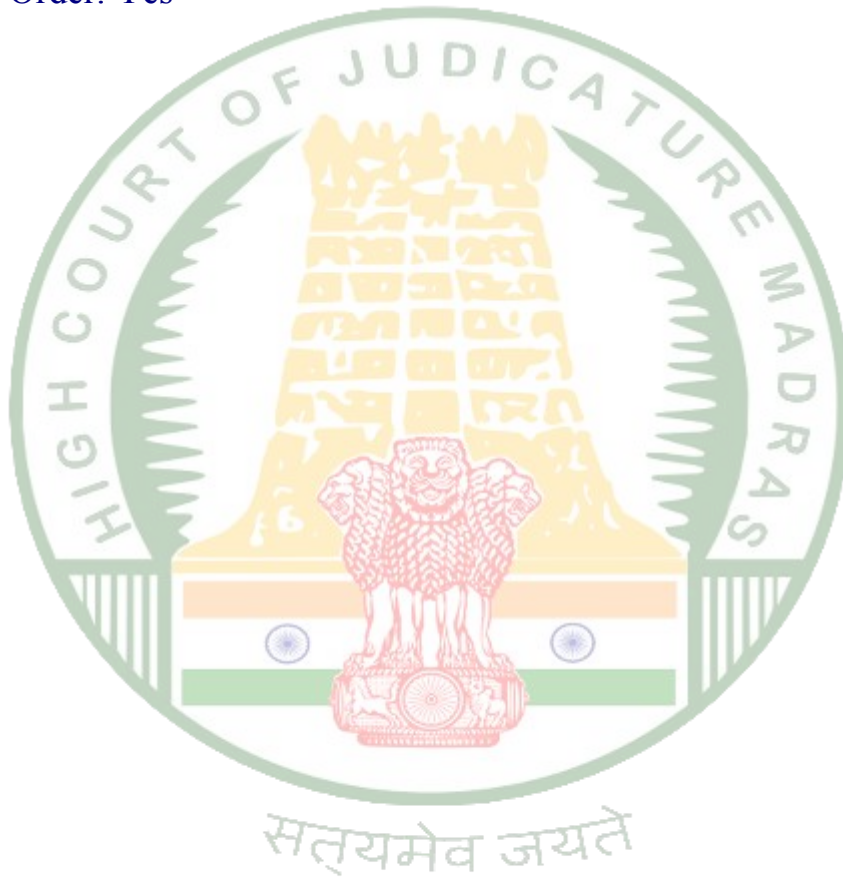
6. Accordingly, this petition is ordered. Registry is directed to issue Letters of Administration in favour of the petitioner. The petitioner is directed to duly administer the properties and credits of the deceased. The petitioner is also directed to execute a security bond for a sum of Rs.25,000/- (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.

17.08.2021

Speaking Order: Yes

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Order dated 17.08.2021 in O.P.No.649 of 2020

V. PARTHIBAN, J

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O.P.No.649 of 2020
(Letters of Administration)

17.08.2021

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