

O.P.No.673 of 2020

V.PARTHIBAN, J

This Petition has been filed under Sections 232 and 276 of the Indian Succession Act, 39 of 1925 read with Order XXV Rule 5 of the Madras High Court Original Side Rules, seeking to grant of Letters of Administration in favour of the first 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 petitioner and perused the materials available on record.

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

(a) Sri.A.C.Balasubramaniam, son of Late A.K.Chellam, died as a Bachelor on 20.03.2020 at Flat No.A/1, No.12, 12th Cross Street, Besant Nagar, Chennai-600 090 and he ordinarily resided in the said address. The parents of the deceased pre-deceased him. The petitioners are the sisters of

Late A.C.Balasubramaniam. The deceased A.C.Balasubramaniam, at the time of his death, had left the properties, both movable and immovable in the State of Tamil Nadu within the jurisdiction of this Court.

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

(c) The said Will was duly executed at Chennai on 15.08.2016 in the presence of witnesses whose names appear at the foot thereof. The said Will had been registered on 30.09.2016 as Document No.63 of 2016 in Book III in the Office of the Sub-Registrar, Adyar.

(d) By the said Will, the deceased had not appointed any executor and the first petitioner is the only beneficiary under the said Will. The present petition is concerned only with respect to the properties described in the Affidavit of Assets, left by the deceased and the same are situated within the jurisdiction of this Court.

(e) The first petitioner is the legatee under the Will, for which the present grant of Letters of Administration had been sought for.

(f) The amount of assets which is likely to come into the hands of the

first petitioner, does not exceed in aggregate the sum of Rs.50,00,000/- and the net amount of the said assets after deducting all items which the petitioners by law are allowed to take, is of the value of Rs.49,80,000/-.

(g) The petitioners hereby undertakes to duly administer the properties and credits of the said deceased, in any way concerning his Will, by paying first his 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.

(h) The first 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. The second petitioner is none other than the sister of the first petitioner and has no objection whatsoever for the grant of Letters of Administration with Will. The parents of the deceased have pre-deceased him. There is no other legal heir or next kin or other persons interested to be impleaded.

(i) 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 petitioners have filed the present Original Petition (O.P) for the relief stated supra.

4. The first petitioner, who examined herself as P.W.1, reiterated the averments made in the petition and filed Exs.P-1 to P-5. Ex.P-1 is the computer generated Death Certificate of A.C.Balasubramanian, who died on 20.03.2020. Ex.P-2 is the original Will, dated 15.08.2016 executed by the deceased, which had been attested by two attesting witnesses, namely (i)Mr.Ramesh Subramaniam and (ii) Rani Subramaniam. Ex.P-3 is the Affidavit of Assets showing the net value of the Estate as Rs.49,80,000/-. Ex.P-4 is a copy of paper publication effected in one issue of Tamil Daily "Makkal Kural", dated 27.02.2021. Ex.P-5 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 15.08.2016 was examined as

P.W.2. In his evidence, P.W.2 has stated that he knew the Testator Mr.A.C.Balasubramaniam; that he is his cousin, that he is aware of Ex.P-2 Will executed by the Testator; that himself and his wife took the Testator to the Sub-Registrar Office for execution and registration of Ex.P-2 Will; that the two attesting witnesses to Ex.P-2 Will are P.W.2 and P.W.2's wife Mrs.Rani Subramaniam, that P.W.2 saw the Testator signing Ex.P-2 Will; that P.W.2's wife was also present before the Sub-Registrar Office; that the Testator was in a sound state of mind at the time of execution of Ex.P-2 Will, that after the Testator signed the Will, P.W.2 and P.W.2's wife attested the Will in his presence; that all the three, i.e. P.W.2, P.W.2's wife and the Testator were together present at the time of execution of the Will and that P.W.2 had filed his affidavit, which is Ex.P-6.

6. Considering the averments made in the petition and on perusing the materials available on record, this Court is satisfied that the first 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 first petitioner. The first petitioner is directed to duly administer the properties and credits of the deceased. The first 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 first petitioner is further directed to render true and correct accounts once in a year.

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22.07.2021

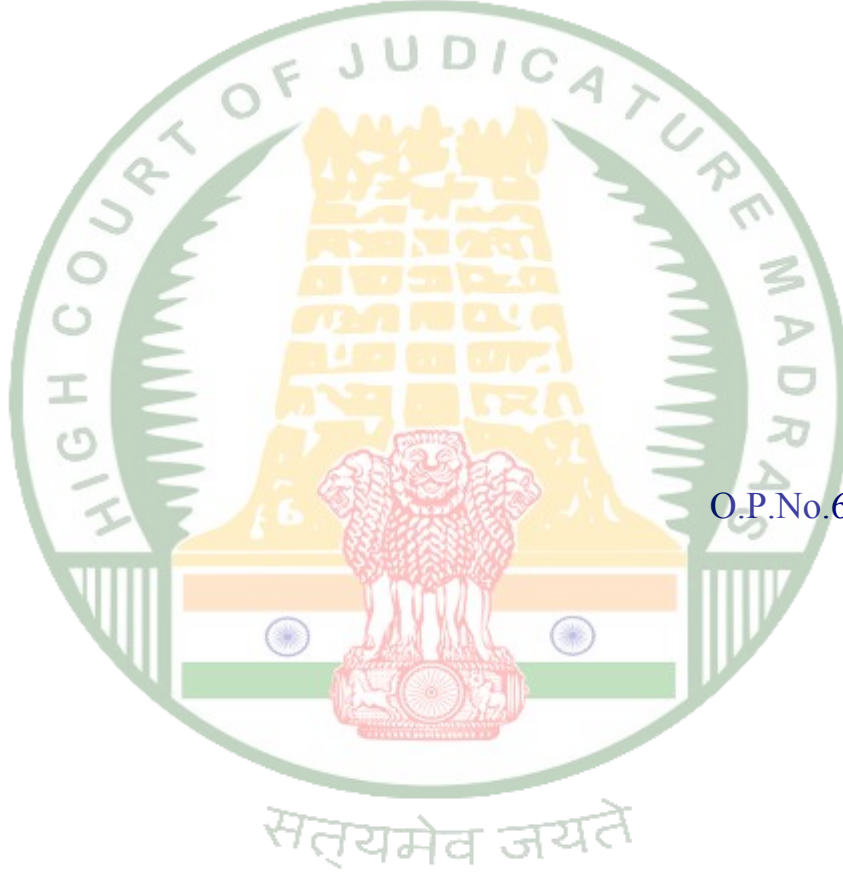


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Order dated 22.07.2021
in O.P.No.673 of 2020

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