

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

WEDNESDAY, THE 17TH DAY OF MARCH 2021

THE HON'BLE MR. JUSTICE R.PONGIAPPAN

O.P.No.782 of 2019

In the matter of Part X of the Indian
Succession Act, XXXIX / 1925

and

In the matter of Estate of Manoharlal
Davey (Intestate Deceased)

1. ASHOK KUMAR DAVEY

S/o.Late Hari Prasad Davey,
residing at No.140, Devdarshan Apartments,
No.1, Barnaby Road, Kilpauk,
Chennai-600010.

..Petitioners

-Vs-

1. JAYANTHI LAL DAVEY

S/o.Late Hari Prasad Davey,
No.1/135, Devdarshan Apartments,
No.1, Barnaby Road, Kilpauk,
Chennai-600010.

2. DAKSHA N.DANAK

Wife of Navin Kumar B.Danak,
residing at Old No.29, New No.70,
Nainiappa Naicken Street,
Park Town, Chennai-600003.

..Respondents

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

Letters of Administration to the property and credits of the deceased to have

effect throughout the whole of the State of Tamil Nadu may be granted to

the petitioner.

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 for grant of Letters of Administration in respect of the estate of the deceased Manoharlal Davey.

2. This petition has been filed for grant of Letters Administration in respect of the estate of the deceased Manoharlal Davey. The petitioner is the younger brother of the deceased Manoharlal Davey. The respondents 1 and 2 are the younger brother and younger sister of the deceased, respectively. The parents of the deceased viz., Hari Prasad Davey (Father) and Tara Ben (Mother) predeceased him. Wife of the deceased viz., Chandra Davey also predeceased him on 11.10.2008. The deceased Manoharlal Davey died on 19.04.2019 leaving no issues. As per Hindu Law of succession, the petitioner and respondents 1 and 2 are each entitled to one third share in the estate of their brother Manohar Lal Davey and there are no other persons interested to be impleaded in this petition. The deceased died intestate and though due and diligent search has been made for a Will, nothing has been found. The amount of assets which is likely to come to the petitioner's hands

do not exceed in the aggregate sum of Rs.25,00,000/- and the net amount of the said assets after deducting all the items, which the petitioners are by law allowed to deduct is only of the value of Rs.24,99,000/-. The petitioner undertakes to duly administer the property and credits of the deceased Manoharlal Davey and to make a full and true inventory thereof and exhibit the same to the Court within six months from the date of grant of Letters of Administration to the petitioner and also render a true account of the said property and credits within one year from the said date.

3. Notice sent to 1st respondent was returned on 21.11.2019 with the postal endorsement 'door locked' and the notice sent to the 2nd respondent was served on 21.11.2019. However, the consent affidavits of respondents 1 and 2, stating that they have no objection in issuance of letter of administration in favour their brother, the petitioner herein, have been marked as Ex.P10 and Ex.P11, respectively.

4. The petitioner has been examined himself as P.W.1 and Ex.P.1 to Ex.P.9 have been marked.

5. 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 estate of the deceased Manoharlal Davey. Ex.P.1 is the computer generated death certificate of Manoharlal Davey. Ex.P.1 has been filed to prove that the deceased Manoharlal Davey died on 19.04.2019. Ex.P.2 is computer generated death certificate of Chandra Davey, wife of the deceased, who died on 11.10.2008. Ex.P3 and Ex.P4 are the copies death certificates of the parents of the deceased, who died on 31.07.2005 and 09.05.2011. Ex.P5, is the photocopy of the Sale Deed dated 08.05.2003 executed in favour of Mr.Manoharlal, Mr.Dharmesh Kumar, Mr.Ashok Kumar and Mr.Elesh Kumar. Ex.P6, is the photocopy of the order for name transfer dated 12.09.2003. Ex.P7, is the affidavit of assets showing the net value of the estate as Rs.24,99,999/-. Ex.P8 & Ex.P9, are the copy of paper publication effected in one issue of Tamil Daily “Makkal Kural” and English Daily “Trinity Mirror”, dated 02.01.2021 and 11.01.2021, respectively. Though the paper publications are in order, none have objected for the same.

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6. In view of the above facts, I am of the view that the petitioner has proved his claim and hence, the petitioner is entitled for the issuance of Letters of Administration in his favour.

7. 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.
17.03.2021

//Certified to be a true copy//

Dated this the day of 2021.

SU/26.03.2021

COURT OFFICER(O.S.)

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.

सत्यमेव जयते

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