



OP No.439 of 2017

OP No.439 of 2017

WEB COPY

ABDUL QUDDHOSE, J.

This petition was originally filed for Probate by D.Palani, the Executor of a Will dated 09.05.2002 executed by Jaya @ Jeyammal, who died on 09.07.2002. During the pendency of this petition, the Executor died and his legal representatives have been brought on record as petitioners 2 to 5, pursuant to the order dated 24.10.2019 passed by this Court in A.No.5265 of 2019 and the petition filed for probate was converted into a petition for Letters of Administration. Under the said order, the first respondent, viz., D.Velarasu was transposed as first petitioner.

2. Under the Will dated 09.05.2002, there were two attesting witnesses, viz., C.Chakrapani and V.Aruljothi. D.Palani, the Executor under the said Will, is the nephew of the Testatrix Jaya @ Jeyammal. After filing of this O.P, D.Palani died and his legal representatives were brought on record as mentioned supra. The petition for probate was also converted into a petition for Letters of Administration. The first



OP No.439 of 2017

petitioner, viz., D.Velarasu is the son of Durairaj, the nephew of the Testatrix, Jaya @ Jeyammal. The petitioners 2 to 5 are the children of D.Palani (deceased), who is the Executor under the Will dated 09.05.2002. The respondents 1 and 2 are the other sons of Durairaj (deceased). The third respondent is another nephew of the Testatrix, born to late Ganesan, the brother of the Testatrix.

3. Before the learned Master, D.Velarasu, the first petitioner and the nephew of the Testatrix, Jaya @ Jeyammal, examined himself as P.W1. In his deposition, he has reiterated the contents of the petition filed in support of O.P.No.439 of 2017. Through P.W.1, the following documents were marked as Exhibits.

<i>Exhibits</i>	<i>Nature of the document</i>
Ex.P-1	Original Will dated 09.05.2002 executed by N.Jaya Ammal, which has been attested by two attesting witnesses namely 1.Mr.C.Chakrapani and 2.Mr.V.Aruljothi
Ex.P-2	Computer generated death certificate of Jeyammal, who died on 09.07.2002.
Ex.P-3	Computer generated death certificate of D.Palani, who died on 01.01.2018.



OP No.439 of 2017

<i>Exhibits</i>	<i>Nature of the document</i>
Ex.P-4	Copy of paper publication effected in one issue of Tamil daily “Makkal Kural” dated 02.04.2021.
Ex.P-5	Copy of paper publication effected in one issue of English daily “Trinity Mirror” dated 09.04.2021.
Ex.P-6	Affidavit of assets showing the net value of the estate as Rs.10,00,000/-

4. One of the attesting witnesses to the Will, by name, C.Chakrapani was also examined as P.W2 before the learned Master. He has deposed that he is well acquainted with the Testatrix Jaya @ Jeyammal. He has also deposed that he saw Testatrix Jaya @ Jeyammal, affixing her left thumb impression in the Will (Ex.P1) on 09.05.2002 and only in his presence, she had affixed her left thumb impression. The attesting witness, C.Chakrapani (P.W2) has also filed proof affidavit before the learned Master, which has been marked as Ex.P7, supporting the execution of the Will dated 09.05.2002 by the Testatrix Jaya @ Jeyammal.

5. As seen from the evidence available on record, it is clear that Testatrix Jaya @ Jeyammal executed a Will dated 09.05.2002 and under the said Will, her nephews, namely, D.Palani and D.Velarasu are the two beneficiaries. The Will (Ex.P1) was attested by two attesting witnesses,



OP No.439 of 2017

namely, C.Chakrapani and V.Aruljothi. One of the attesting witnesses,

namely, C.Chakrapani has also been examined as a witness (P.W2)

before the learned Master. As observed earlier, he has supported the contents of the Will (Ex.P1). He has also deposed that only in a sound and disposing state of mind, memory and understanding, the Will was executed by Testatrix Jaya @ Jeyammal. He has also deposed that only in his presence, Testatrix Jaya @ Jeyammal affixed her left thumb impression on all pages in the subject Will. The Executor, namely, D.Palani, the nephew of the Testatrix was appointed under the Will. But, during the pendency of this petition, he died and pursuant to the order dated 24.10.2019 passed by this Court in A.No.5265 of 2019, his legal representatives were brought on record and D.Velarasu, the original respondent was made as the first petitioner in this O.P, seeking for grant of Letters of Administration. All the brothers of the deceased Testatrix Jaya @ Jeyammal predeceased her. In the Will dated 09.05.2002, the Testatrix stated that it was only her nephews, viz., D.Palani and D.Velarasu, who took care of her, as she did not have issues out of her wedlock. Nagalinganambinathan, her husband, also predeceased her about 10 years prior to execution of the Will dated 09.05.2002. The death



OP No.439 of 2017

certificate of Jaya @ Jeyammal, which has been marked as Ex.P2 also confirms that the Testator died on 09.07.2002. The death certificate of D.Palani, which has been marked as Ex.P3 also confirms that the Testator died on 01.01.2018. The legal heirship certificate of D.Palani, the Executor under the said Will, has also been produced at the time of filing of A.No.5265 of 2019. As seen from the legal heirship certificate, the petitioners 2 to 5 are the legal heirs of the deceased D.Palani. Under the aforementioned order, D.Velarasu was also transposed as the first petitioner and at the time of filing of this petition, he was the first respondent. Paper publications have also been effected in one issue of Tamil Daily “Makkal Kural” and one issue of English Daily “Trinity Mirror”, which have been marked as Exs.P4 and P5 with regard to the petition filed before this Court seeking for grant of Letters of Administration. Affidavit of Assets showing the net value of the estate of the Testatrix Jaya @ Jeyammal as Rs.10,00,000/- has also been marked as Ex.P6.



OP No.439 of 2017

WEB COPY

6. After perusing and examining the pleadings as well as the evidence available on record, this Court is inclined to grant Letters of Administration in favour of the petitioners as prayed for in O.P.No.439 of 2021, as the petitioners have proved the Will dated 09.05.2002 executed by the Testatrix Jaya @ Jeyammal. Accordingly, O.P.No.439 of 2021 is allowed as prayed for.

7. Registry is directed to issue Letters of Administration in favour of the petitioners having effect limited to the Union of India, they being the beneficiaries/legatees under the Will of the deceased. As undertaken by the petitioners, the petitioners are directed to duly administer the properties and credits of the deceased in any way concerning her Will by paying first her 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 petitioners are also directed to execute a security bond for a sum of Rs.25,000/- (Rupees twenty five thousand



OP No.439 of 2017

only) in favour of the Assistant Registrar (O.S.-II), High Court, Madras.

As undertaken by the petitioners, the petitioners are directed to render this Court a true and correct accounts within one year from the date of grant of Letters of Administration.

15.12.2021

srn/ab



WEB COPY



OP No.439 of 2017

ABDUL QUDDHOSE, J.

srn/ab

OP No.439 of 2017

15.12.2021