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

MONDAY, THE 22ND DAY OF NOVEMBER 2021

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

O.P.No.953 of 2019

In the matter of Indian
Succession Act, XXXIX of
1925
and
In the matter of the Last WILL
and Testament of
M.R.Krishnamurthy(Deceased)

1. S.SAROJA
W/o.S.Sridhar
D/o.Late M.R.Krishnamurthy,
No.406, Sri Sai Residency,
Survey No.38,
Opp.Kodigehalli Railway Station,
Canara Bank Layout, Bangalore North,
Vidyaranyapura,
Bangalore North,
Karnataka-560097.

2. K.USHA
W/o.Ravi Chandar
D/o.Late M.R.Krishnamurthy,
No.34, 3rd Main Road,
Behind Jawahar Flats,
On 70 Feet Road,
Jawahar Nagar,
Chennai-600082.

3. RAJESWARI CHANDRASHEKHAR @ CHITHRA
W/o.K.Chandrashekhhar
D/o.Late M.R.Krishnamurthy,
No.G-3/394,



Gulmohar Colony,
Gulmohar Water Tank Ke Samne,
Bhopal, Madhya Pradesh-462039.

..Petitioners

-Vs-

1. Mrs.K.VASANTHA
W/o.Late M.R.Krishnamurthy
No.34, 3rd Main Road,
Behind Jawahar Flats,
On 70 Feet Road,
Jawahar Nagar,
Chennai-600082

2. S.GEETHA
W/o.K.Sridhar,
D/o.Late M.R.Krishnamurthy,
No.2445, E Block, Sahakar Nagar,
Bangalore North,
Bangalore,
Karnataka-560 092.

3. K.GANESH
S/o.Late M.R.Krishnamurthy
Member (Life) Insurance Regulatory and
Development Authority of India,
Sy.No.115/1, Financial District,
Nanakramguda, Gachi Bowli,
Hyderabad,
Telangana-500032.

4. L.R.SUNDARARAJAN
S/o.Late L.R.Rajagopalan
Flat No.4, Durga Flats, 1/853,
'B' Block, 9th Street,
Karthikeyapuram, Madipakkam,
Chennai-600091.

5. S.JAYASHREE
W/o.P.P.C Sree Karthik
D/o.L.R.Sundararajan,
Flat No.4, Durga Flats, 1/853,



B Block, 9th Street,
Karthikeyapuram,
Madipakkam,
Chennai-600091.

..Respondents

Original Petition praying that this Hon'ble Court be pleased to grant Letters of Administration with the Will of Late M.R.Krishnamurthy, dated 22.7.2013 annexed to them as the daughters / beneficiaries under the Will of the deceased M.R.Krishnamurthy having effect throughout the State of Tamilnadu.

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

This petition has been filed for Letters of Administration.

2. The petitioners are the daughters of the deceased M.R.Krishnamurthy, who has executed a Will dated 22.07.2013. Under the said Will, the petitioners are the beneficiaries. M.R.Krishnamurthy, the testator died on 12.06.2018. One of the daughters of the deceased M.R.Krishnamurthy, by name, K.Revathi died on 07.01.2009. The first respondent is the wife of the deceased M.R.Krishnamurthy. The second respondent is his daughter and the third respondent is his son. The fourth respondent is the son-in-law of the testator and the husband of the deceased K.Revathi. The fifth respondent is the daughter of the deceased K.Revathi



and grand daughter of the testator.

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3. Before the learned Master, the following documents were marked as Exhibits.

<i>Exhibits</i>	<i>Nature of the documents</i>
P1	Photocopy of the Aadhar Card of KSankaran Kutty, who has seen the execution of the Will by the testator, M.R.Krishnamurthy.
P2	Certified copy of the Sale Deed dated 06.10.1967 executed in favour of testator, M.R.Krishnamurthy.
P3	Original Will dated 22.07.2013 executed by M.R.Krishnamurthy.
P4	Computer generated death certificate of the testator, M.R.Krishnamurthy, which confirms that he died on 12.06.2018.
P5	Photocopy of the death certificate of K.Revathi to confirm that she died on 07.01.2009.
P6	Computer generated legal heirship certificate dated 16.09.2019 for the testator M.R.Krishnamurthy.
P7	Affidavit of assets showing the net value of the estate as Rs.90,26,000/-.

4. Before the learned Master, K.Sankaran Kutty, the person, who has seen the execution of the Will by the testator, M.R.Krishnamurthy, was examined as PW-1. He has deposed that he is aware of the signature of the deceased, M.R.Krishnamurthy, who has subscribed his signature in the Will dated 22.07.2013, under which, the petitioners are the beneficiaries. He has



also deposed that he is aware that V.Krishnamoorthy, who signed as one of the attesting witnesses in the Will dated 22.07.2013 executed by M.R.Krishnamurthy, died in May 2021 on account of Covid-19.

5. In the petition filed in support of O.P.No.953 of 2019 seeking for Letters of Administration, the petitioners have stated that the whereabouts of other witness to the Will, by name, K.Natarajan, are not known.

6. Before the learned Master, the first petitioner, who is one of the daughters of the testator, by name, S.Saroja was examined as P.W-2. She has deposed on behalf of the remaining petitioners also. She has deposed that the contents of the affidavit filed in support of O.P.No.953 of 2019 are true and the petitioners are entitled for Letters of Administration.

7. As seen from the evidence available on record, it is clear that the petitioners are the daughters of the testator, M.R.Krishnamurthy and the Will dated 22.07.2013 has been executed by the testator in their favour. In the said Will, they are the beneficiaries. The original Will dated 22.07.2013 executed by the testator, M.R.Krishnamurthy has been marked as Ex.P-3.

In the said Will, two attesting witnesses have signed. In the petition filed in

support of O.P.No.953 of 2019, the petitioners have stated that the



whereabouts of one of the attesting witnesses, namely, K.Natarajan, are not known to them. During the pendency of O.P.No.953 of 2019, the other attesting witness, namely, V.Krishnamoorthy, died on 04.05.2021 on account of Covid-19. The said K.Sankaran Kutty, who was examined as P.W-1 at his residence, has deposed that V.Krishnamoorthy died in May 2021 on account of Covid-19. The said K.Sankaran Kutty, aged about 80 years, has sworn to a proof affidavit dated 26.10.2021 deposing that he is aware of the signature of the deceased testator, M.R.Krishnamurthy, who has subscribed his signature in the original Will dated 22.07.2013, under which, the petitioners are the beneficiaries. Therefore, after considering the aforementioned evidence, this Court is of the considered view that the petitioners have given proper explanation for not having examined the attesting witnesses to the Will dated 22.07.2013. In the place of the attesting witnesses, they have examined K.Sankaran Kutty, aged about 80 years to confirm that the Will was in fact executed by M.R.Krishnamurthy in favour of the petitioners. This Court is convinced with the reasons given by the petitioner for non-examination of the attesting witnesses. The said K.Sankaran Kutty has also deposed through his affidavit that he knows the testator M.R.Krishnamoorthy for more than 50 years and he used to meet him twice a day during morning and evening walk and personal problems were also shared between them, when he was alive.



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8. After giving due consideration to the evidence placed on record, this Court is satisfied with the reasons given by the petitioners for non examination of the attesting witnesses and accepts the deposition of K.Sankaran Kutty, who was examined as P.W.1, in the place of attesting witnesses. The respondents 2 and 3 are the other children of the deceased testator, M.R.Krishnamoorthy and the respondent No.1 is his wife. The respondent-4 is the son-in-law of the testator, M.R.Krishnamoorthy and he is the husband of the deceased daughter K.Revathi, who died on 07.01.2009. The Death Certificate of K.Revathi has also been marked as Ex.P.5 to confirm that she died on that date. K.Revathi, pre-deceased her father (testator). The respondent-5 is the daughter of the deceased K.Revathi. The Legal Heirship certificate of the testator, M.R.Krishnamoorthy has been marked as Ex.P-6, which confirms that on the date of his death on 12.06.2018, he has left behind K.Vasanth (his wife), Geetha Sridhar (daughter), K.Ganesh (Son), S.Saroja (daughter), K.Usha (daughter) and Rajeswari Chandrasekhar (daughter) as his only legal heirs. Therefore, it is clear that the petitioners and the respondents are the only legal heirs of the deceased testator, M.R.Krishnamoorthy.



respondents 1 and 3, on instructions, would submit that the respondents 1 and 3 have no objection for grant of Letters of Administration as prayed for in O.P.No.953 of 2019 in favour of the petitioners.

10. The second respondent has been duly served and till date, no counsel has entered appearance on behalf of the second respondent, nor has she represented herself. The respondents 4 and 5 are represented by Mr.T.R.Prabakaran, learned counsel. Even though this petition was filed in the year 2019, till date, no objection has been raised by any of the respondents. No caveat has also been filed with the supporting affidavit objecting the grant of Letters of Administration in favour of the petitioners by any of the respondents. Therefore, it is clear that the respondents have no objection for the grant of Letters of Administration in favour of the petitioners.

11. An averment has also been made in the petition that no application has been made to the District Court or delegate or to any High Court for Probate of any Will of the deceased or Letters of Administration with or without the Will annexed to his properties and credits. No application under Succession Certificate in respect of any debts or security

belonging to the estate of the deceased has been made to any District Court



or delegate or to any High Court.

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12. From the evidence available on record and as seen from the petition filed in support of O.P.No.953 of 2019, this Court is of the considered view that the Will dated 22.07.2013 executed by M.R.Krishnamoorthy, which has been marked as Ex.P3, in which, the petitioners are the beneficiaries, has been proved by the petitioners. Accordingly, O.P.No.953 of 2019 is allowed and Letters of Administration is granted in favour of the petitioners.

13. Registry is directed to issue Letters of Administration in favour of the petitioners having effect limited to the Union of India, they being the beneficiary/legatee 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 his Will by paying first his 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 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.

Sd/.A.Q.J.
22.11.2021

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

SU/25.11.2021

COURT OFFICER(O.S.)

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