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T.O.S.35 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2021

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THE HONOURABLE **MR.JUSTICE N.SESHASAYEE**

T.O.S.35 of 2019 in

(O.P.No.143 of 2019)

Suja Mathew

... Petitioner / Plaintiff

Vs.

Biji Kuruvilla

... Caveator / Defendant

Petition is filed under Sections 232 & 276 of the Indian Succession Act.XXXIX of 1925 for grant of Letters of Administration. Against this petition, a Caveat and objection affidavit was filed on 16th day of August, 2018 in O.P.No.143 of 2019 the Original Petition has to be converted into Testamentary Original Suit.

For Plaintiff : M/s.Praveen Alexander

For Defendant : C.P.G.Yoganand & Associates

J U D G M E N T

The present suit is laid for obtaining letters of Administration of Joint Will executed by a certain V.V.Kuruvilla and his wife Santhamma Kuruvilla.



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2.The said V.V.Kuruvilla and Santhamma Kuruvilla executed a registered Will dated 27.03.2001. The couple had three children and they are here arrayed as plaintiff and the two defendants.

3.V.V.Kuruvilla died on 01.08.2006 and Santhamma Kuruvilla died on 18.05.2014, on their death, the Will came to effect.

4.There are three items of properties and the testators have bequeathed item No.1 to the 2nd defendant and the plaintiff. Item No.2 to the 2nd defendant and his daughter and Item No.3 exclusively to the 1st defendant and his daughter.

5.For obtaining the Letters of Administration, the plaintiff laid a petition in O.P.No.143 of 2019. The 1st defendant entered Caveat consequent to which it was converted into a suit. The 1st defendant has also filed his written statement.

5.Issues were framed and the matter was posted for trial before the learned Additional Master No.II. Before the learned Master, the Caveator / the 1st defendant did not choose to contest and consequently he was set as exparte.



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6.The propounder of the Will, the plaintiff examined himself as P.W.1 and two attestors whereabouts could not be traced and hence P.W.2 was examined and identified the signatures of the testator and witnessed in terms of 69 of the Evidence Act. Ex.P1 to Ex.P10 were marked on the side of the plaintiff, of which, Ex.P1 dated 27.03.2001 is the Will.

7.This Court perused the evidence and holds that the execution of the Will dated 27.03.2001 stands proved in the manner known to law, the Testamentary Original Suit stands decreed as prayed for. The Letters of Administration is granted in respect of the Will in favour of the plaintiff. The plaintiff shall execute a security bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand only) in favour of the Assistant Registrar (O.S.II), High Court, Madras within a period of three (3) months as required under law. No costs.

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Index : No

Internet : Yes

Speaking order/ Non-speaking order



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List of the witnesses examined on the side of the plaintiff:

PW1 - Mrs.Suja Mathew

PW2 – Mr.Muthurasu

List of Exhibits marked on the side of the plaintiff :

<i>Exhibits</i>	<i>Description</i>	<i>Dated</i>
Ex.P1	The Will executed by the deceased V.V.Kuruvilla	27.03.2001
Ex.P2	Death Certificate of V.V.Kuruvilla	10.08.2006
Ex.P3	Death certificate of Santhamma Kuruvilla	25.05.2015
Ex.P4	Legal Heir Certificate of Santhamma Kuruvilla	24.12.2014
Ex.P5	Sale Deed- 1967 in favour of V.V.Kuruvilla	21.01.1967
Ex.P6	Sale Deed in favour of Santhamma Kuruvilla	22.01.1973
Ex.P7	Sale Deed in favour of V.V.Kuruvilla – 1998	26.10.1998
Ex.P8	Sale Deed in favour of V.V.Kuruvilla – 1998	21.12.1998
Ex.P9	Settlement Deed	02.01.2018
Ex.P10	Encumbrance Certificate	12.09.2018

List of the witnesses examined on the side of the defendant: Nil

List of Exhibits marked on the side of the defendant: Nil

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N.SESHASAYEE, J.

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