



O.P.No.952 of 2018

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ABDUL QUDDHOSE, J.

This petition has been filed for Letters of Administration with a Will annexed. The first petitioner is the son and the second petitioner is the grand daughter (daughter of the first petitioner) of the deceased Testator Mr.K.S.Gurumoorthy, who died on 09.03.2005 leaving behind a Will dated 22.11.2004, in which the petitioners are the beneficiaries.

2. The first, second and third respondents are the other surviving children of the deceased Testator Mr.K.S.Gurumoorthy. The fourth to sixth respondents are the legal heirs of Mrs.Vijayalakshmi, who is the elder daughter of the testator Mr.K.S.Gurumoorthy and the seventh respondent is the wife of Dr.Chinnaya Gurumoorthy, who is also the son of the Testator Mr.K.S.Gurumoorthy.

3. Under the Will dated 22.11.2004, the first petitioner was granted life interest of the subject property and thereafter it has to go to the second petitioner absolutely. There are two attesting witnesses in the Will dated 22.11.2004 and they



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are Mr.R.Chellamuthu and Mr.E.Dayanithi.

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4. Before the Learned Master, the first petitioner was examined as a witness (P.W.1). In his deposition, he has reiterated the contents of the petition filed in support of O.P.No.952 of 2018. Through P.W.1, the following documents were marked as exhibits:-

<i>Exhibits</i>	<i>Nature of the document</i>
Ex.P-1	Computer generated death certificate of Shen Bagavalli, who died on 31.12.1990.
Ex.P-2	Computer generated death certificate of Vijayalakshmi, who died on 27.11.1998.
Ex.P-3	Computer generated death certificate of Chinnaya Gurumurthy, who died on 29.09.2002.
Ex.P-4	Certified copy of the Sale Deed dated 18.10.2001 executed in favour of Mr.K.S.Gurumoorthy.
Ex.P-5	Original unregistered Will dated 22.11.2004 executed by K.S.Gurumoorthy, which has been attested by two attesting witnesses viz., 1. Mr.R.Chellamuthu and 2. Mr.E.Dayanithi.
Ex.P-6	Original death certificate of K.S.Gurumoorthy, who died on 09.03.2005.
Ex.P-7	Photocopy of the Legal Heirship certificate dated 24.05.2005 in respect of K.S.Gurumoorthy.
Ex.P-8	Affidavit of assets showing the net value of the estate as Rs.20,00,000/-.
Ex.P-9	(Series 2 Nos) are the copies of paper publication effected



<i>Exhibits</i>	<i>Nature of the document</i>
	in one issue of Tamil daily “Makkal Kural” dated 12.01.2021 and one issue of English daily “Trinity Mirror” dated 19.01.2021.

5. One of the attesting witnesses viz., E.Dayanithi was examined as a witness (P.W.2). Through P.W.2, E.Dayanithi (second attesting witness), the following document was marked as exhibit:-

<i>Exhibits</i>	<i>Nature of the document</i>
Ex.P-10	Affidavit of E.Dayanithi, P.W.2 (second attesting witness)

6. Mr.E.Dayanithi, P.W.2, in his evidence, has deposed that the Testator Mr.K.S.Gurumoorthy is his family friend and he is well acquainted with him. He has also deposed that Ex.P5 Will dated 22.11.2004 was executed by Mr.K.S.Gurumoorthy only in his presence and in the presence of the other attesting witness Mr.R.Chellamuthu. He has also deposed that only at the request made by Testator Mr.K.S.Gurumoorthy, he subscribed his signature as the second attesting witness along with Mr.R.Chellamuthu. He has also deposed that the Testator Mr.K.S.Gurumoorthy signed in all the pages of the Ex.P5 Will only in his presence and in the presence of the other attesting witness Mr.R.Chellamuthu. He has also



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deposed that the Will was executed by Mr.K.S.Gurumoorthy in sound and disposing state of mind, memory and understanding. In support of his deposition, he has also filed affidavit which has been marked as Ex.P10.

7. All the respondents have been duly served. Despite service of notice on them and their names having been printed in the cause list today, till date, none of them have filed caveat objecting to the grant of Letters of Administration in favour of the petitioners and they have also not entered appearance in this proceeding either by themselves or through a counsel. It can therefore be inferred that they are not objecting to the grant of Letters of Administration in favour of the petitioners.

8. It is evident that the deceased Testator Mr.K.S.Gurumoorthy executed the Will dated 22.11.2004 in which the petitioners are the beneficiaries. The first petitioner is his son who has been given life interest for the subject property and the second petitioner is his grand daughter, who is the daughter of the first petitioner who will take the property absolutely after the lifetime of the first petitioner as per the subject Will dated 22.11.2004.



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9. The original Will dated 22.11.2004 of Mr.K.S.Gurumoorthy has been marked as Ex.P5. The Testator Mr.K.S.Gurumoorthy died on 09.03.2005 as evident from his death certificate which has been marked as Ex.P6. The Legal Heirship certificate of the Testator Mr.K.S.Gurumoorthy has been marked as Ex.P7 and it reveals that the first petitioner and the first, second and third respondents are his only legal heirs. The Testator's other son by name Chinnaya Kurumoorthy predeceased the Testator on 29.09.2002 and his death certificate has been marked as Ex.P3. The wife of the Testator Mr.K.S.Gurumoorthy by name Mrs.Shen Bagavalli predeceased the Testator on 31.12.1990 as evident from her death certificate which has been marked as Ex.P1. Mrs.Vijayalakshmi, the other daughter of the Testator Mr.K.S.Gurumoorthy also predeceased him on 27.11.1998 as seen from her death certificate which has been marked as Ex.P2. The Sale Deed which is standing in the name of the Testator Mr.K.S.Gurumoorthy which is the subject matter of the Will has also been marked as Ex.P4. Paper publications have also been effected in one issue of Tamil daily “Makkal Kural” dated 12.01.2021 and one issue of English daily “Trinity Mirror” dated 19.01.2021 with regard to O.P.No.952 of 2018 which have been marked as Ex.P9.



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10. The respondents, despite having received the notice in this Original Petition, have not entered appearance till date nor they have filed caveat along with the supporting affidavit stating their objection for grant of Letters of Administration in favour of the petitioners.

11. The petition is of the year 2018. Now we are in end of the year 2021. It can now be inferred that the respondents do not have any objection for grant of Letters of Administration in favour of the petitioners.

12. After giving due consideration to the pleadings as well as to the evidence available on record, this Court is inclined to grant Letters of Administration in favour of the petitioners as prayed for.

13. Accordingly, this petition is allowed. Issue Letters of Administration of the Will dated 22.11.2004 (Ex.P.5) in favour of the petitioners. The petitioners are directed to duly administer the properties and credits of the deceased more fully described in the schedule. The petitioners are also directed to execute a security bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) in favour



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of the Assistant Registrar (O.S.II), High Court, Madras. The petitioners are further directed to render true and correct accounts once in a year.

22.12.2021

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