

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

MONDAY, THE 03RD DAY OF JANUARY 2022

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

O.P.No.542 of 2020

In the matter of Indian Succession,
Act XXXIX of 1925
and
In the matter of Last Will and
Testament of E.L.Ramanathan
(deceased)

1. E.R.LAKSHMANAN
S/o.Late E.L.Ramanathan,

2. E.R.SRIDHAR
S/o.Late E.L.Ramanathan,
Both residing at
“Harini” Old Door No.10,
New Door No.2,
Sundareswaraswami Street,
Mylapore, Chennai-600 004

..Petitioners

-Vs-

Mrs.USHA SWAMINATHAN
W/o.Swaminathan,
D/o.Late E.L.Ramanathan,
51, SHIMROOKS, Great Leighs,
Chelmsford CM3 1SG UK

..Respondents

Original Petition praying that this Hon'ble Court be pleased that a
Letters of Administration with the will annexed may be granted to the

petitioners as legal heir of beneficiaries under the Will of the said deceased 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 grant of Letters of Administration with a Will annexed.

2. The petitioners are the sons of the deceased Testator, Mr.E.L.Ramanathan, who died on 09.04.1997 leaving behind a registered Will dated 10.01.1986, in which the petitioners' mother Mrs.R.Savithri Ramanathan is the beneficiary. The petitioners are the sons of the deceased Testator Mr.E.L.Ramanathan and the respondent is his daughter and they are the only legal heirs of the deceased Testator Mr.E.L.Ramanathan.

3. During her lifetime, the petitioners', mother Mrs.R.Savithri Ramanathan did not approach this Court seeking for grant of Letters of Administration. It is also the case of the petitioners that Mrs.R.Savithri Ramanathan acted upon the Will and she has also executed the settlement deed in favour of the petitioners during her lifetime. It is the case of the

petitioners that now they are proposing to sell the property, which is the subject matter of the Will dated 10.01.1986, but, the buyers are insisting for Letters of Administration order from this Court and only under such circumstances, the petitioners have filed this petition, seeking for grant of Letters of Administration belatedly.

4. The petitioners and the respondent, who are the children of the deceased Testator Mr.E.L.Ramanathan, are the only legal heirs of the deceased Mr.E.L.Ramanathan. Before the Learned Master, the first petitioner, who is the son of the deceased Testator Mr.E.L.Ramanathan 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.542 of 2020. Through P.W.1, the following documents were marked as Exhibits:-

<i>Exhibits</i>	<i>Nature of the document</i>
Ex.P-1	Original registered Will dated 10.01.1986 executed by E.L.Ramanathan, which has been attested by two attestors. Ex.P1 Will was registered as Doc.No.3 of 1986 on the file of the office of Sub Registrar, Mylapore.
Ex.P-2	Computer generated death certificate of E.L.Ramanathan, who died on 09.04.1997.
Ex.P-3	Photocopy of the Legal Heirship certificate dated 30.07.1997 in respect of E.L.Ramanathan.
Ex.P-4	Computer generated death certificate of R.Savithiri, who died on 03.05.2019.
Ex.P-5	Computer generated Legal Heirship certificate dated 18.08.2019.

<i>Exhibits</i>	<i>Nature of the document</i>
Ex.P-6	Photocopy of the Sale Deed dated 24.03.1971 executed in favour of E.L.Ramanathan.
Ex.P-7	Photocopy of the Settlement Deed dated 09.12.2013 in favour of Mr.E.R.Lakshmanan and Mr.E.R.Sridhar.
Ex.P-8	Copy of paper publication effected in one issue of Tamil daily “Makkal Kural” 04.08.2021.
Ex.P-9	Copy of paper publication effected in one issue of English daily “Trinity Mirror” dated 11.08.2021.
Ex.P-10	Affidavit of assets showing the net value of the estate as Rs.4,69,58,000/-.

Through P.W.2, the following document was marked.:-

Ex.P-11	Affidavit of P.W.2 M.D.Prathapan
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5. Under the subject Will dated 10.01.1986, there are two attesting witnesses viz., Mr.D.D.Srinivasan and Mr.Michael. Both the attesting witnesses are dead and in their place, Mr.M.D.Prathapan has been examined as a witness (P.W.2) before the Learned Master. In his deposition, he has deposed that he knows Mr.E.L.Ramanathan for the past 40 years. He has also deposed that Mr.E.L.Ramanathan worked as Assistant Commissioner of Police and died in the year 1997 and after retirement, Mr.E.L.Ramanathan started a business under the name and style of “ E.L.R. Security and Detective Services”. P.W.2 has deposed that he worked as a Checking Inspector in the “ E.L.R. Security and Detective Services” and he was doing Banking operation of Late Mr.E.L.Ramanathan. He has deposed

that he is well acquainted with the signature of Mr.E.L.Ramanathan, the Testator. He has also identified the signature of Mr.E.L.Ramanathan by deposing that the signature found in the Ex.P1 Will is that of Mr.E.L.Ramanathan. He has also deposed that Mr.D.D.Srinivasan, one of the attesting witness to the subject Will was also working along with him in E.L.R. Security and Detective Services and he has well acquainted with his signature also. He has also deposed that signature found in the place of first attestor viz., Mr.D.D.Srinivasan in Ex.P1 Will is that of Mr.D.D.Srinivasan only. He has also deposed that the subject Will was registered before the Sub Registrar's Office, Mylapore and he had also accompanied Mr.E.L.Ramanathan to the Sub Registrar's Office for the purpose of registering the Will. He has also deposed that he has seen Mr.E.L.Ramanathan and the other two attesting witnesses signing the Ex.P1 Will. He has also deposed that Mr.D.D.Srinivasan, one of the attesting witness passed away 15 years ago. He has also filed an affidavit in support of his deposition which has been marked as Ex.P11.

6. The petitioners are the sons of the Late Testator E.L.Ramanathan and the respondent is his daughter. The respondent has also filed consent affidavit dated 11.03.2021 stating her no objection for grant of Letters of Administration in favour of the petitioners. She is also represented by a

learned counsel who also says no objection for grant of Letters of Administration in favour of the petitioners.

7. As seen from the evidence available on record, it is clear that Mr.E.L.Ramanathan had executed a registered Will dated 10.01.1986 (Ex.P1), in which, the Testator's wife Mrs.Savithri was the beneficiary. Mrs.Savithri had also acted upon the Will and has executed the settlement deed dated 09.12.2013 in favour of the petitioners, which has been marked as Ex.P7. However, during her lifetime, she did not approach this Court seeking for grant of Letters of Administration of the subject Will, though she has acted upon the same by executing the Settlement Deed in favour of her sons, the petitioners herein. The reasons given by the petitioners for approaching this Court now is that the buyers for the property are insisting for Letters of Administration order from this Court, which is acceptable by this Court.

8. Even though none of the attesting witnesses have been examined as a witness, the evidence given by Mr.M.D.Prathapan, (P.W.2) has to be accepted for the following reasons:-

a) Both the attesting witnesses viz., Mr.D.D.Srinivasan and Mr.Michael are no more and in fact Mr.D.D.Srinivasan died 15 years ago.

b) Mr.M.D.Prathapan (P.W.2), in his deposition, has deposed that he only accompanied the Testator Mr.E.L.Ramanathan to the Registrar's Office and only in his presence, the Testator Mr.E.L.Ramanathan and other two attesting witnesses Mr.D.D.Srinivasan and Mr.Michael had signed the subject Will (Ex.P1).

c) He has also deposed that he knows the Testator Mr.E.L.Ramanathan for the past 40 years and he was working with him in his business running in the name and style of “ E.L.R. Security and Detective Services”.

9. After giving due consideration to the evidence available on record, it is clear that E.L.Ramanathan has executed a valid Will dated 10.01.1986, which has been marked as Ex.P1. E.L.Ramanathan died on 09.04.1997 and his death certificate has been marked as Ex.P2. The Legal Heirship certificate dated 30.07.1997 for E.L.Ramanathan, which has been marked as

Ex.P3, confirms that the petitioners, the respondent as well as his wife R.Savithri are his only legal heirs. Mrs.Savithri, who was the beneficiary under the subject Will dated 10.01.1986(Ex.P1) died subsequently on 03.05.2019 and her death certificate has been marked as Ex.P4. The Legal Heirship certificate of Mrs.Savithri dated 18.08.2019 (Ex.P.5) also confirms that the petitioners and the respondent are her only legal heirs.

10. The Sale Deed dated 24.03.1971 standing in the name of E.L.Ramanathan (Testator) has been marked as Ex.P6, which is the subject matter of the Will, in which Mrs.Savithri has been made as beneficiary. The Settlement Deed dated 09.12.2013 executed by Mrs.Savithri, after acting upon the subject Will dated 10.01.1986 (Ex.P1) and executed in favour of the petitioners has been marked as Ex.P7. The paper publication has also been effected in one issue of Tamil daily “Makkal Kural” dated 04.08.2021 and in one issue of English daily “Trinity Mirror” dated 11.08.2021 with regard to O.P.No.542 of 2020 which have been marked as Exs.P8 and P.9 respectively.

11. As seen from the evidence available on record, it is clear that a valid Will has been executed by E.L.Ramanathan on 10.01.1986 (Ex.P1). Therefore the Will dated 10.01.1986 marked as Ex.P1 stands proved.

Accordingly, Letters of Administration is granted in favour of the petitioners as prayed for in O.P.No.542 of 2020.

12. Accordingly, this petition is allowed. Issue Letters of Administration of the Will dated 10.01.1986 (Ex.P.1) 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.

13. Registry is directed to issue Letters of Administration order copy to the Learned Counsel for the petitioner on or before 10.02.2022.

Sd/.A.Q.J.
03.01.2022

//Certified to be a true copy//

Dated this the day of 2022.

SU/10.01.2022

COURT OFFICER(O.S.)

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