



Testamentary Original Suit No.16 of 2008 in
(O.P.No.204 of 2005)

RESERVED ON : 16.09.2022

DELIVERED ON: 30.09.2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CORAM

THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

Testamentary Original Suit No.16 of 2008

in

(O.P.No.204 of 2005)

1.RM.Valliappan
2.Rama Valliappa

... Plaintiffs

Vs.

1.V.N.S.Chidambaram Chettiar
2.RM.P.RM.P.V.Muthiah Chettiar
3.C.T.Sulochana
4.M.Umayal
5.N.Sasikala

.. Respondents

Prayer: Original Petition No.204 of 2005 was filed under Sections 232 and 276 of Part X of the Indian Succession Act, XXXIX of 1925 and under Order XXV Rule 5 of the High Court Original Side Rules, praying to grant Letters of Administration with the Will Annexed, to the plaintiffs as legatees under the Will of the deceased N.PL.S.M.V.Ramanathan Chettiar having effect whole of Union of India. As per the order of this Court dated



Testamentary Original Suit No.16 of 2008 in
(O.P.No.204 of 2005)

02.07.2007 made in Application Nos.4923 to 4925 and 4439 of 2005, Letters of Administration granted on 13.09.2005 is revoked. By order dated 10.04.2008 this Original Petition has been converted into Testamentary Original Petition and numbered as TOS.No.16 of 2008.

For Plaintiffs : Mr.V.Raghavachari

For Defendants : Mr.T.R.Rajaraman

J U D G M E N T

This suit is filed for grant of Letters of Administration to the plaintiffs with a Will annexed there to, as legatees under a Will of the deceased, N.PL.S.M.V.Ramanathan Chettiar, having effect in whole of Union of India.

2. The case of the petitioners/plaintiffs is that plaintiffs' father N.PL.S.M.V.Ramanathan Chettiar executed a Will dated 25.07.1994. He appointed the first and second defendants, his sons-in-law as Executors to administer the estate of the deceased as per the terms of the Will. Plaintiffs' communicated by the letter dated 30.10.2001 to the first and second defendants about the Will of the deceased and that they are appointed as Executors. First and second defendants through the letters dated



Testamentary Original Suit No.16 of 2008 in
(O.P.No.204 of 2005)

WEB COPY

10.11.2001 and 07.11.2001 respectively, requested plaintiffs to send a copy of the Will. Accordingly, petitioners/plaintiffs sent a copy of the Will along with the letter dated 05.12.2001. Second defendant through his letter dated 07.11.2001 stated that he is willing to act as an Executor but he has not taken any steps to implement the Will as an Executor. A notice dated 27.06.2004 was sent to the defendants 1 and 2 to express their willingness and unwillingness to act as an Executor. They have not sent any reply. Plaintiffs are the joint beneficiaries under the Will. Therefore, this suit.

3. Originally, O.P.No.204 of 2005 was filed by the plaintiffs / petitioners against six persons. Fifth respondent, Visalakshi appears to have not filed caveat and therefore, other respondents have been shown as defendants. During the enquiry conducted in O.P.No.204 of 2005, the first plaintiff, RM.Valliappan was examined as P.W.1. The original Will of N.PL.S.M.V.Ramanathan Chettiar dated 25.07.1994 was marked as Ex.P1, his death certificate and paper publications have been marked as Exs.P2 to P4, respectively. One Mr.G.Govindarajan was examined as P.W.2, to prove the execution of the Will. He has given evidence to effect that he attested the Ex.P1 Will along with R.M.Meenakshi, wife of the testator. Affidavit of attesting witness G.Govindarajan is Ex.P5. After conversion of the O.P., as



Testamentary Original Suit No.16 of 2008 in
(O.P.No.204 of 2005)

a suit and when the matter is pending for trial, defendants 1, 3 to 5 have filed consent affidavits, consenting to grant Letters of Administration of the Will of late N.PL.S.M.V.Ramanathan Chettiar dated 25.07.1994 to the plaintiffs.

4. It appears that during the pendency of the suit, second defendant RM.P.RM.PV.Muthiah Chettiar expired on 28.09.2020. His wife M.Umayal, the fourth defendant in this case has filed consent affidavit along with other defendants 3 and 5 stating that she has no objection for grant of Letters of Administration of the Will of N.PL.S.M.V.Ramanathan Chettiar to the plaintiffs.

5. On considering the materials placed before this Court, the consent affidavit of the defendants 1, 3 to 5, this Court finds that plaintiffs are the sons of the deceased, N.PL.S.M.V.Ramanathan Chettiar. The defendants are sisters and brothers-in-law of the plaintiffs. One of the brother-in-law namely the second defendant expired during the pendency of the suit. Another brother-in-law namely the first defendant shown as an Executor in the Will. It appears that he is not interested in taking the duties and responsibilities of an Executor. Therefore, he said that he has no



Testamentary Original Suit No.16 of 2008 in
(O.P.No.204 of 2005)

objection for the grant of Letters of Administration to the plaintiffs.

Plaintiffs' sisters have also stated that they have no objection for the grant of Letters of Administration in favour of the plaintiffs.

6. Therefore, this Court is of the considered view that plaintiffs' can be granted Letters of Administration of the Will dated 25.07.1994 of Late N.PL.S.M.V.Ramanathan Chettiar.

7. In the result,

(i). The suit in TOS.NO.16 of 2008 is decreed as prayed for.

(ii). The Letters of Administration, having effect throughout India, shall be issued in favour of the plaintiffs in respect of the Will executed on 25.07.1994 by late N.PL.S.M.V.Ramanathan Chettiar in favour of the plaintiffs.

(iii). The plaintiffs are directed to duly administer the estate of the deceased as mentioned in the suit schedul.

(iv). The plaintiffs shall execute a security bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only)



WEB COPY



Testamentary Original Suit No.16 of 2008 in
(O.P.No.204 of 2005)

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

(v). The plaintiffs are further directed to render true
and correct accounts once in a year.

(vi). No costs.

30.09.2022

AT

List of witnesses examined on the side of the plaintiffs:

P.W.1-Rama Valliappa

P.W.2-G.Govindarajan

List of exhibits marked on the side of the plaintiffs:

Exhibits	Date	Description of Exhibits
P1	25.07.1994	Xerox copy of Unregistered Will executed by N.PL.S.M.V.Ramanathan Chettiar
P2	13.03.2001	Original death certificate
P3	06.07.2005	Paper publication in Makkal Kural
P4	02.07.2005	Paper publication in News Today
P5	27.09.2004	Affidavit of attesting witness G.Govindarajan



Testamentary Original Suit No.16 of 2008 in
(O.P.No.204 of 2005)

WEB COPY

List of witnesses examined and exhibits marked on the side of the
defendants:

NIL

30.09.2022

AT

Index: Yes/no



WEB COPY



Testamentary Original Suit No.16 of 2008 in
(O.P.No.204 of 2005)

G.CHANDRASEKHARAN, J.

AT

T.O.S.No.16 of 2008

30.09.2022