



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

THURSDAY, THE 24TH DAY OF MARCH 2022

THE HON'BLE MRS.JUSTICE V. BHAVANI SUBBAROYAN

T.O.S.No. 15 of 2009
(O.P.No. 820 of 2007)

In the matter of the Indian Succession
Act XXXIX of 1925, and

In

In the matter of Last Will and
Testament of Mr.M.Ulagamuthu
Nadar - Deceased

1. Mrs.G. Malathi,
W/o. Late. U. Ganesan,
2. Mr. Rajkumar,
S/o. Late. U. Ganesan,
3. Ms. Ramya,
D/o. Late. U. Ganesan,
4. Ms. Divya,
D/o. Late. U. Ganesan,

All residing at Old No.99, New No.215,
Kutcheri Road,
Chennai – 600 004.

... Petitioners/Plaintiffs

-Vs-

Mrs. Bhavani,
W/o. Rajaram,
No. 44, Ragavachari Street,
Perambur,
Chennai – 600 011

.... Caveator / Defendant



Testamentary Original Suit praying that this Hon'ble Court be pleased to grant Letters of Administration with the Will annexed may be granted to the petitioners 1 and 2 being the Daughter-in-law/Legatees under the Will of the said deceased having effect limited to the State of Tamil Nadu.

This Testamentary Original Suit coming on this day before this court for hearing in the presence of Mr. J. Kalidass, For Mr. S. Jaganathan, Advocates for the plaintiffs herein and the defendant herein not appearing in person or by advocate and the said defendant herein, having been set exparte on 17/12/2021 and upon reading the plaint filed herein and the other exhibits therein referred hereto and upon perusing the evidence adduced therein and **It is ordered and decreed as follows:-**

That upon executing a security bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) in favour of Assistant Registrar (O.S-II), High Court, Madras, the plaintiffs herein, having complied with the rules of this Court in this behalf Letters of Administration of the property and credit of M.Ulagamuthu Nadar – deceased annexed with the Will dated 17.08.2001 of the said deceased to have effect limited to the State of Tamil Nadu, do issue herein out of and under the seal of this Court and the same be granted



2. That the plaintiffs 1 & 2 herein, be and are hereby 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 shall 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.

3. That the plaintiffs 1 & 2 herein, be and are hereby directed to render this Court a true and correct accounts within one year from the date of grant of Letters of Administration.

WITNESS THE HON'BLE MR. JUSTICE MUNISHWAR NATH BHANDARI, CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 24TH DAY OF MARCH 2022.

Sd/-
JOINT REGISTRAR(O.S.)

//Certified to be true copy//
Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)
From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.



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ED

04.04.2022

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T.O.S.No. 15 of 2009
(O.P.No. 820 of 2007)

DECREE :-

DATED : 24.03.2022

THE HON'BLE MRS. JUSTICE
V. BHAVANI SUBBAROYAN

FOR APPROVAL: 04.04.2022

APPROVED ON: 05.04.2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.03.2022

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

T.O.S.No. 15 of 2009

1.G. Malathi
2.Rajkumar
3.Ramya
4.Divya

..Plaintiffs

Versus

1.Bhavani
2.Balasundari
3.Kalavathi

..Defendants

Prayer: Original Petition converted as TOS praying for Letters of Administration under Sections 232 and 276 of the Indian Succession Act, XXXIX of 1925 r/w Order XXV Rule 5 of the Original Side Rules, 1956, the letters of administration with the Will annexed may be granted to the plaintiffs 1 and 2 being the daughter-in-laws / Legatees under the Will of the said deceased having effect Limited to the State of Tamil Nadu.

For Plaintiffs : Mr.J. Kalidass
For Mr.S. Jaganathan

For Defendants : Set Ex-pate on 17.12.2021



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JUDGEMENT

Originally, the plaintiffs have filed O.P.No.820 of 2007 for issuance of Letters of Administration in respect of the Will dated 17.08.2001 executed by the deceased M.Ulagamuthu Nadar, who died on 13.01.2004. On notice, the respondents in O.P.No.820 of 2007 raised their objection and therefore, the Original Petition stood converted as TOS.No.15 of 2009.

2. The case of the plaintiffs is as follows:-

The deceased M.Ulagamuthu Nadar, was the absolute owner of the properties in Pallipattu Village, Thiruchendur District viz, measuring an extent of 43 cents comprised in Ayan Punja in R.S.No.323/B, measuring an extent of 23 cents comprised in Ayan Punja in R.S.No.319/1B; measuring an extent of 22 cents out of 61 cents comprised in Ayan Punja in R.S.No.319/1A, the land measuring to an extent of 5 cents out of 10 cents comprised in Ayan Punja R.S.No.378/6, the land measuring to an extent of 24 cents out of 48 cents comprised in Ayan Punja R.S.No.380/10; the land measuring an extent of 10 cents out of 19 cents comprised in Ayan Punja R.S.Nos.380/6A and 380/6B; the land measuring an extent of 54 cents out of 64 cents comprised in Ayan Punja R.S.No.358/2A; the portion of the land and building measuring 80' x 20' in 4th Block, Door No.86 East Street, Nathankinaru, Pallipattu Village Natham; the land measuring an extent of 8



cents out of 36 cents comprised in Ayan Punja R.S.No.174/1C2; the land measuring an extent of 54' x 30' in 4th Block, East Street, Nathankinaru, Pallipattu Village Natham and having acquired the same under a Deed of Partition dated 04.07.1975 registered as Document No.747 of 1975 on the file of Sub Registrar Office, Thiruchendur.

3. It is the further case of the plaintiffs the said deceased M.Ulagamuthu Nadar was also the absolute owner of the property measuring an extent of 1768 sqft., together with common passage situated at Old Door No.60-D, New Door No. 109, now No.233, Kutchery Road, Mylapore, Chennai-600 004, comprised in O.S.Nos.1867 and 1868 in R.S.No.3325, New R.S.No.3325/1B, Mylapore Village and the second floor building of the said property with undivided share of land measuring an extent of 2235 sqft., the land measuring an extent of 1191 sqft., together with three storied building thereon, comprised in O.S.Nos.1867 and 1868, R.S.No.3325, New R.S.No.3325/1B, Mylapore Village; and the second floor building of the said property with undivided share of land measuring an extent of 2235 sqft., the land measuring an extent of 1191 sqft., together with three storied building thereon, comprised in O.S.Nos.1867 and 1968, R.S.No.3325, New R.No.3325/1F situated at New Door No.99, Old Door



same under a deed of partition dated 21.04.1975 registered as Document No.622 of 1975 on the file of SRO, Mylapore, and the partition decree dated 27.04.1998 in O.S.No.128 of 1998 passed by the VI Asst. City Civil Court, Chennai. Hence, he had absolute right and legal capacity to execute the above Will in favour of his legal heirs. He had executed the Will while he was in a sound and disposing state of mind, out of his own free will and discretion, and the same was duly registered by him. The Testator had not appointed anybody as the Executor to take possession of the properties and to give effect to his Will after his death. Anyhow, the plaintiffs being the daughter-in-law, grandson and grand-daughter and beneficiaries under the Will, have taken out this petition for issuance of the Letters of Administration of the Will and there is no delay in taking out this petition for Letters of Administration annexed with the Will. The amount of the assets after deducting all items which the petitioners are by law allowed to deduct, is only of the value of Rs.14,03,500/-. However, the plaintiffs 1 and 2 hereby undertake to duly administer the properties and credits of the above said Mr.M.Ulagamuthu Nadar, 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 grant



to render to this Court a true account of the said properties and credits within one year from the said date. The plaintiffs submit that they have not taken out any application before any District Court or delegate or to any other High Court for the Probate of any Will of the above said deceased or Letters of Administration with or without the Will annexed of his properties and credits. Hence, the plaintiffs pray that the Letters of Administration with the Will annexed, may be granted to the plaintiffs 1 and 2 being the first plaintiff is the daughter-in-law and the second plaintiff is the grandson of the deceased, having effect limited to the State of Tamil Nadu.

4. The writing hereto annexed now shown to the plaintiffs and marked with letter "A" is the last Will dated 17.08.2001 and Testament of the above said M.Ulagamuthu Nadar and the same was duly registered as Doc.No.99 of 2001, Book No.III, on the file of SRO, Mylapore. However, there are no Executors in the above said Will. The first plaintiff is the daughter-in-law of the deceased. The second plaintiff is the grandson of the deceased. The third and fourth plaintiffs are the grand-daughters of the deceased. The deceased M.Ulagamuthu Nadar died on 13.01.2004 leaving behind his three daughters (i) Mrs.Bhavani (ii) Mrs.Balasundari and (iii) Mrs.Kalavathi, the defendants 1 to 3 and the legal heirs of his pre-deceased



Divya, who are the plaintiffs 1 to 4 herein as his only legal heirs under the Hindu Succession Act, 1956. The parents of the Ulagamuthu Nadar and his wife also pre-deceased him. It is their contention that on the death of the deceased, the Will dated 17.08.2001 would automatically come into force and as beneficiaries of the Will, they are entitled to the properties covered thereof.

5. Notice was served on the defendants. In fact, the records revealed that the defendants had earlier filed Caveat before this Court and that is the reason why the original petition stood converted as TOS. However, the defendants did not file any written statement and therefore, they were set ex-parte on 17.12.2021 and the ex-parte evidence was recorded on 28.01.2022.

6. The first plaintiff has filed Proof Affidavit reiterating the plaint averments and she was also examined before the learned Master on 15.02.2022, during which, she reiterated the averments in the Proof Affidavit, besides marking five documents, namely, Ex.P1 to Ex.P5. The Attestor of the Will, namely, Ramamoorthy was examined as PW2. He also deposed an oath before the learned Master on 15.02.2022.



7. On a perusal of the oral and documentary evidence adduced on behalf of the plaintiffs, this Court is of the view that the plaintiffs have proved the case with respect to the coming into force of the Will dated 17.08.2001 executed by Mr.M.Ulagamuthu Nadar.

8. Accordingly, this TOS is decreed as prayed for. Registry is directed to issue Letters of Administration in favour of the plaintiffs 1 and 2 having effect throughout the State of Tamil Nadu, they being the beneficiaries/legatees under the Will of the deceased. As undertaken by the plaintiffs 1 and 2, they 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 plaintiffs 1 and 2 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 plaintiffs 1 and 2, the plaintiffs 1 and 2 are directed to render this Court a true and correct accounts within one year from the date of grant of Letters of Administration.



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List of Witnesses examined on the side of the plaintiffs:-

P.W.1: Mrs.G.Malathi
P.W.2: Mr.S.Ramamurthy

List of documents marked on the side of the plaintiffs:-

Sl. No	Exhibits	Date	Description of Documents
1.	P1	13.01.2004	Original copy of the Death Certificate of Mr.Ulagamuthu Nadar
2.	P2	17.08.2001	Original copy of the Will
3.	P3	29.09.2006	Original copy of the vonsent affidavit of Ms.Balasundari
4.	P4	29.09.2006	Original copy of the consent affidavit of Ms.Kalavathi
5.	P5	26.04.2008	Original copy of the Paper Publication

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

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

Court witness and documents: Nil

Sd./- V.B.S.J.,
24.03.2022

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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