

**O.P.No. 637 of 2021**

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C.V.KARTHIKEYAN, J.

This Petition has been filed seeking Letters of Administration with Will annexed relating to the Will of Rathinam Naicker, who died on 19.04.2002 and who had executed a Will dated 12.07.1995. The petitioner is the beneficiary under the Will.

2. It had been stated in the petition that the Original Will could not be found since the father of the petitioner had kept it at an inconspicuous place during his life time. It was subsequently traced and it was therefore stated that the delay in filing an application should be condoned.

3. The first and second respondents had been served on 08.12.2021 and the third respondent had been served on 29.12.2021. The first respondent is the widow of late Rathinam Naicker and the second respondent is another son of Rathinam Naicker. The third respondent is the daughter of Rathinam Naicker through his deceased first wife Pattammal.



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4. After following due procedure, the parties were invited to adduce evidence. The petitioner examined herself as PW-1. The registered Will dated 12.07.1995 was marked as Ex.P-2. The death certificate of Rathinam Naicker was marked as Ex.P-3 and the legal heir ship certificate was marked as Ex.P-4. The affidavit of assets was marked as Ex.P-6. The consent affidavits given by the first and second respondents, were marked Exs.P-7 and P-8. Thereafter, N.Natarajan was examined as PW-2 and he stated that he knew Rathina Naicker for the past 40 years. He also identified the signature of Rathina Naicker and S.Kalyana Sundaram, the second attester in Ex.P-1 Will.

5. It is the contention of the learned counsel for the petitioner that both the attesting witnesses were dead. However, after hearing arguments, this Court had directed private notice to be issued to the two attesting witnesses A.Subramanian and S.Kalyana Sundaram.

6. Notices issued had been returned with endorsement 'deceased'. Affidavit of service had been filed in that regard.



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7. In view of the evidence produced, this Original Petition stands allowed as follows:-

(a) the letters of administration shall be issued in favour of the petitioner in respect of the properties mentioned in the petition.

(c) The petitioner is directed to duly administer the said properties of the deceased.

(d) 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.

(e) The petitioner is further directed to render true and correct accounts once in a year.

10.10.2022

Index:Yes/No
Internet :Yes/No
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