

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

TUESDAY, THE 25TH DAY OF JANUARY 2022

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

O.P.No.995 of 2019

In the matter of Indian
Succession Act XXXIX
of 1925

and

In the matter of Last Will
and Testament of P.Subramani
-(deceased)

S.SANTHI(50)
W/O.G.SUNDAR,
NO.11, 'A' TYPE, Q BLOCK,
31ST STREET, AGATHIYAR NAGAR,
VILLIVAKKAM,
CHENNAI-600 049

..Petitioner

-Vs-

1. G.KASTURI (70),
D/O.LATE P.GOVINDHASAMY,
NO.A-91, VISWANATHAN STREET,
VETRI NAGAR, KOLATHUR,
KUMARAN NAGAR, CHENNAI

2. G.LAKSHMI,(68)
D/O.LATE P.GOVINDHASAMY,
NO.18, AIBEA NAGAR,
MUGAPPAIR (WEST), CHENNAI-600 058

3. G.RAMBAI,(67)
D/O.LATE P.GOVINDHASAMY,
NO.81/1, ANJUGAM NAGAR,

18TH STREET, KOLATHUR,
CHENNAI-600 058

4. G.SARASWATHI(61)
D/O.LATE P.GOVINDHASAMY,
NO.3, GOPALANAYAKAR STREET,
PERAMBUR,
CHENNAI-600 011

5. G.RAJENDRAN(60)
S/O.LATE P.GOVINDHASAMY,
NO.1, BHARATHIDASAN STREET,
ERUKANCHERY,
CHENNAI-600 118

6. G.SUNDAR (58)
S/O.LATE P.GOVINDHASAMY,
NO.11, A TYPE, Q BLOCK,
31ST STREET, AGATHIYAR NAGAR,
VILLIWAKKAM,
CHENNAI-600049

7. G.YUVARAJ (56)
S/O.LATE P.GOVINDHASAMY,
NO.24/11, KARUMARI AMMAN KOIL STREET,
PERAMBUR,
CHENNAI-600 011

8. S.KARUNAMOORTHY (65)
S/O.LATE P.SRINIVASAN,
NO.29, KUPPUSAMY STREET,
THIRU.VI.KA NAGAR,
CHENNAI-600 011

9. S.RAJALAKSHMI (55)
D/O.LATE P.SRINIVASAN,
NO.29, KUPPUSAMY STREET,
THIRU.VI.KA.NAGAR,
CHENNAI-600 011

10. A.BHAVANI (50),
D/O.LATE APPA RAO,
NO.53, REDDY STREET,
NELLIKUPPAM, CUDDALORE,
TAMILNADU-607 105

11. A.BAKIRATHY (48),
D/O.LATE APPA RAO,
NO.53, REDDY STREET,
NELLIKUPPAM, CUDDALORE,
TAMILNADU-607 105

12. A.LAKSHMI (47)
D/O.LATE APPA RAO,
NO.53, REDDY STREET,
NELLIKUPPAM, CUDDALORE,
TAMILNADU-607 105

13. A.SARASWATHI (45)
D/O.LATE APPA RAO,
NO.53, REDDY STREET,
NELLIKUPPAM, CUDDALORE,
TAMILNADU-607 105

14. A.REVATHI (43)
D/O.LATE APPA RAO,
NO.53, REDDY STREET,
NELLIKUPPAM, CUDDALORE,
TAMILNADU-607 105

15. S.MAGESWARI (61),
D/O.LATE SOMASUNDARAM,
NO.44/45, SUNDARAMURTHI VINAYAGAR KOIL STREET,
TRIPLICANE,
CHENNAI-600 005

16. S.KARUNAKARAN (60),
S/O.LATE SOMASUNDARAM,
26/17, THIRU-VI-KA STREET,
PERAMBUR,
CHENNAI-600 011

17. S.LALITHA (58),
D/O.LATE SOMASUNDARAM,
NO.11, RAJAJI STREET,
PERAMBUR,
CHENNAI-600011

18. S.SARASWATHI(51),
D/O.LATE SOMASUNDARAM,
SOORIAMMAN PETTAI STREET,
SAIDAPET,
CHENNAI-600015

19. DEVAKUMAR (50),
S/O.LATE SOMASUNDARAM,
26/17, THIRU-VI-KA STREET,
PERAMBUR,
CHENNAI-600 011

..Respondents

Original Petition praying that this Hon'ble Court be pleased to grant Letters of Administration with Will annexed thereof, to petitioner, niece to the Testator, as beneficiary, under the Will of the deceased, with respect to the property, morefully described in schedule annexed (in the petition).

This Original Petition coming on this day before this court for hearing the court made the following order:

This petition has been filed seeking for Letters of Administration with Will annexed. The petitioner is the niece of the Testator P.Subramani, who died on 17.12.1999 leaving behind the registered Will dated 24.06.1999 under which the petitioner is the beneficiary.

2. The Testator P.Subramani died leaving behind no issues and his wife Kangavalli also pre-deceased him in the year 2017. The Testator P.Subramani had three brothers by name, a) P.Govindhasamy, b)P.Venugopal and c)P. Srinivasan and three sisters by name a) Kokilambal, b) P.Kumudavalli and c) S. Ranganayaki. The Testator's siblings referred to supra are also dead. The respondents are the children of the Testator P.Subramani's sibilings. Under the subject Will dated 24.06.1999 there are two attesting witnesses viz., P.Kaliyamurthy and G.Sundar.

3. Respondents have been duly served in this original petition and their names have also been printed in the cause list today. They have chosen not to defend this original petition filed by the petitioner seeking for Letters of Administration. Therefore, it can be inferred that they do not have any objection for grant of Letters of Administration in favour of the petitioner as prayed for in O.P. No.995 of 2019.

4. Before the learned Master, the petitioner who is the wife of the 6th respondent G. Sundar and the beneficiary under the Will dated 24.06.1999 has been examined as a witness (P.W.1). In her deposition, she has reiterated the contents of the petition filed in support of O.P. No.995 of

2019. Through PW1, the following documents were marked as Exhibits:

<i>Exhibits</i>	<i>Nature of documents</i>
P1	Original Decree dated 20.09.1994 in F.C.O.P. No.259 of 1993 passed by the Principal Family Court, Madras.
P2	Photocopy of the Sale Deed dated 10.04.1996 executed in favour of P.Subramani
P3	Computer generated death certificate of P.Govinda Mudaliar, who died on 24.09.1996
P4	Original registered Will and Testament dated 24.06.1999 executed by P.Subramani, which has been attested by two attestors. Will (Ex.P4) was registered as Doc. No.40 of 1999 on the file of the office of the Sub Registrar, Villivakkam.
P5	Original Death certificate of P.Subramani, who died on 17.12.1999.
P6	Computer generated Death Certificate of S. Ranganayaki, who died on 24.10.2010.
P7, P8 and P9	Original encumbrance certificates dated 10.08.2011, 17.02.2011 and 28.12.2018 respectively
P10	Photocopy of the petitioner's Aadhar card bearing No.5686 4625 3064
P11	Affidavit of assets showing the net value of the estate as Rs.15,49,710/-
P12	Copy of Paper Publication effected in one issue of Tamil daily "Makkal Kural", dated 25.09.2021
P13	Copy of Paper Publication effected in one issue of English daily "Trinity Mirror" dated 09.10.2021

5. The second attesting witness under the subject Will dated 24.06.1999 was also examined as a witness (P.W.2). He has deposed that the Testator P.Subrami is his paternal uncle and he is well acquainted with him and he has deposed that the Testator P.Subramani executed the Will

dated 24.06.1999 (Ex.P4) only in his presence and in the presence of the other attesting witness P.Kaliyamurthy. He has also deposed that only on the request made by the Testator, he and the other attesting witness signed the subject Will. He has also deposed that he saw P.Subramani, the Testator signing in all pages of the Will dated 24.06.1999(Ex.P4). He has identified the signature of the Testator P.Subramani in his deposition.

6. As seen from the evidence available on record, the Testator P.Subramani executed the Will dated 24.06.1999 (Ex.P4) under which the petitioner is the beneficiary. The petitioner is the wife of the nephew of the Testator. The said nephew of the Testator is G. Sundar, the 6th respondent in this Original Petition. The Testator P.Subramani died issueless and his wife Kanagavalli pre-deceased him in the year 2017. The petitioner had three brothers by name, a) P.Govindhasamy, b) P.Venugopal and c) P. Srinivasan and three sisters by name a) Kokilambal, b) P.Kumudavalli and c) S. Ranganayaki. As seen from the pleadings all his siblings are also dead and the respondents are their children. Under the subject Will dated 24.06.1999 (Ex.P4), it is stated by the Testator that it was only the petitioner who took care of him during his life time. The details of the property left behind by the Testator P.Subramani which is the subject matter of the Will dated 24.06.1999 (Ex.P4) wherein the petitioner is the beneficiary are confirmed through Ex.P2, Ex.P7 to Ex.P9.

7. P.Subramani, the Testator died on 17.12.1999 as evidenced from his Death Certificate which has been marked as Ex.P5. The Death Certificate of two of the siblings of the Testator P.Subramani viz., P.Govinda Mudaliar and S.Ranganayaki have been marked as Exhibits viz., Ex.P3 and Ex.P6 respectively.

8. A Paper publication has also been effected by the petitioner in one issue of Tamil daily viz., “Makkal Kural”, dated 25.09.2021 and one issue of English daily viz., “Trinity Mirror” dated 09.10.2021 which have been marked as ex.P12 and Ex.P13 respectively with regard to O.P. No.995 of 2019. The respondents who are the only children of the Testator's siblings have also chosen not to defend this Original Petition. The subject Will (Ex.P4) is a registered Will. Therefore, it can be inferred that the respondents do not have any objection for grant of Letters of administration in favour of the petitioner. One of the attesting witnesses of the subject Will (Ex.P4) viz., G. Sundar has been examined as PW2. Mr.G. Sundar is the husband of the petitioner and the nephew of the Testator P.Subramani, who is the one of the attesting witnesses under the subject Will (Ex.P4). In his deposition he has deposed that the Testator P.Subramani is his paternal uncle and he is well acquainted with him. He has also deposed that only in

his presence and in the presence of other attesting witnesses P.Kaliyamurthy, the Testator P.Subramani executed the subject will dated 24.06.1999(Ex.P4). In his deposition, he has identified the signature of the Testator P.Subramani. He has also deposed that he saw the Testator P.Subramani signing in all the pages of the subject Will (Ex.P4). He has also deposed that the Testator has executed the subject Will(Ex.P4) only in a sound and disposing state of mind, memory and understanding.

9. As seen from the pleadings and evidence available on record, it is clear that a valid Will has been executed by the Testator P. Subramani and under the said Will, the petitioner is the beneficiary. Therefore, this Court is of the considered view that the Will has been duly proved by the petitioner. Accordingly, there shall be an order of letters of administration.

10. Registry is directed to issue Letters of Administration in favour of the petitioner having effect limited to the Union of India. As undertaken by the petitioner, the petitioner is 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 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. As undertaken by the petitioner, the petitioner is directed to render this Court a true and correct account within one year from the date of grant of Letters of Administration.

Sd/.A.Q.J.
25.01.2022

//Certified to be a true copy//

Dated at Madras this the day of 2022.

SU./01.02.2022

COURT OFFICER(O.S.)

From 25.09.2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.