



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 8TH DAY OF FEBRUARY 2022

THE HON'BLE MR. JUSTICE P.VELMURUGAN

A.No. 8197 of 2019

in

O.P.No. 964 of 2015

O.P.No. 964 of 2015:-

In the matter of the Indian Succession Act
XXXIX of 1925

and

In the matter of Last Will and Testament of D.
Natarajan (Deceased)

N. Jaishankar,
S/o. D. Natarajan,
Old No. 87, New No. 26, Appu Street,
Mylapore, Chennai – 600 004. ... Petitioner

-Versus-

1.S.Manjula,
W/o. Sivakumar
Old.No.87, New No.26, Appu Street,
Mylapore, Chennai – 600 004.

2.G.Anbarasi,
W/o. Late N.Gunasekaran,
Old.No.87, New No.26, Appu Street,
Mylapore, Chennai – 600 004. ... Respondents



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Natarajan (Deceased)

G.Anbarasi,

W/o. Late N.Gunasekaran,

Old.No.87, New No.26, Appu Street,

Mylapore, Chennai – 600 004.

... Applicant / 2nd Respondent

Vs.

N. Jaishankar,

S/o. D. Natarajan,

Old No. 87, New No. 26, Appu Street,

Mylapore, Chennai – 600 004.

... 1st Respondent / Petitioner

S.Manjula,

W/o. Sivakumar

Old.No.87, New No.26, Appu Street,

Mylapore, Chennai – 600 004.

...2nd Respondent / 1st Respondent

Application praying that this Hon'ble Court be pleased to set aside ex parte orders of grant of letters of administration dated 05/12/2018, in favour of the 1st Respondent herein and permit the petitioner herein to agitate the alleged Will dated 30/04/2007 by converting above O.P.No.964 of 2015 as Testamentary Original Suit.

This Application coming on this day before this court for hearing, the court

<https://hcservices.ecourts.gov.in/hcservices/>

made the following order:-



This application has been filed to set aside the exparte order of grant of letters of administration dated 05.12.2018.

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2. Learned counsel for the applicant would submit that as the application to condone the delay was allowed, the application to set aside the exparte order is also to be allowed, which is only consequential application.

3. Learned counsel for the respondents would submit that both the application for condonation of delay and the application to set aside the exparte order are independent and therefore, though the condone delay application was allowed, the applicant has to give valid reason for her non-appearance, when the original petition was ordered on 05.12.2018 and hence, this application to set aside the exparte order has to be dismissed.

4. Heard and perused the records.

5. Admittedly, the second respondent in O.P.No.964 of 2015 has filed this application to set aside the exparte order passed on 05.12.2018 in O.P.No.964 of 2015. In order to give an opportunity to the applicant and to meet the ends of justice,

<https://hcservices.ecourts.gov.in/> this application has to be allowed. No prejudice will be caused to the respondents, if



this application is allowed and therefore, this Court is inclined to set aside the exparte order passed on 05.12.2018.

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6. Accordingly, this application is allowed and the order passed by this Court in O.P.No.964 of 2015 on 05.12.2018 is hereby set aside.

7. The respondents in O.P.No.964 of 2015 are directed to file their counter on or before 14.02.2022.

8. List the matter on 15.02.2022.

Sd./-PVJ.

08/02/2022

//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.

EVK 11/02/2022