



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(TESTAMENTARY AND INTESTATE JURISDICTION)

FRIDAY, THE 29TH DAY OF APRIL 2022

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

TOS No. 15 of 2017
(O.P.No. 667 of 2012)

(In the matter Indian Succession
Act, 1925 (Act XXXIX of 1925)

And

(In the matter of the Last Will and
Testament of late Tirupurammal @
Thirupurasundariammal –
deceased)

Mr.P.Padmanabhan,
S/o.Late Pinagapani Mudaliar,
No.23, Bajanai Koil Second Street,
Choolaimedu,
Chennai- 600094

..Petitioner/Plaintiff

Vs.

1.P.Jayalakshmi,
W/o.Ravikumar,
No.1/3, Sowrastra Nagar,
First Street, Choolaimedu,
Chennai- 600 094

2.P.Shantha Bai, (Deceased)*

3.P.Indirani,
W/o.V.Sridharan,
No.1/1, Sowrastra Nagar,
First Street, Choolaimedu,
Chennai- 600 094

..Caveators/Defendants

(*Amended as per the order dated 10.07.2019 in T.O.S.No.15/2017)

Testamentary Original Suit praying that this Hon'ble Court be pleased

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

to grant Letters of Administration of the Will dated 30.08.1996 annexed



herein executed by Tirupurammal @ Thirupurasundariammal in favour of the Petitioner herein as son/beneficiary under the Will of the said deceased, having effect throughout the State of Tamil Nadu.

This Testamentary Original Suit coming on this day before this Court for hearing in the presence of Mr.R.Vijayaraghavan, Advocate for the plaintiff herein and Mr.A.Kothandaraman, Advocate for the defendants herein and upon reading the petition filed herein, and the Consent Affidavit of P.Jayalakshmi and P.Indirani and the Attesting Witnesses S.Varadarajan and G.Sekar filed herein and the other exhibits therein referred to and upon perusing the evidence adduced therein and the plaintiff undertakes to duly administer the properties and credits of the said Thirupurammal @ Thirupurasundariammal, the deceased and in any way concerning her Will by paying first her debts and then the legatees therein, in so far as the asset bequeathed to her and to make a full and true inventory thereof and exhibit the same in this Court within six months from the date of grant of letters of administration with the Will annexed to the petition and to render to this Court a true account of the said properties and credits within one year from the said date and this Court having observed that Considering the consent affidavits filed by the defendants, expressing no objection for the grant of letters of administration to the plaintiff and the affidavits filed by the attesting witnesses, viz., G.Sekar and S.Varadarajan, on execution of the



Will, which is proved in accordance with law in respect of the Will executed by the deceased Thirupurammal @ Thirupurasundariammal having effect throughout the State of Tamil Nadu, and

it is ordered 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 plaintiff herein, having complied with the rules of this Court in this behalf, Letters of Administration of the property and credit of Tirupurammal @ Thirupurasundariammal, deceased annexed with the Will dated 30.08.1996 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 to Mr.P.Padmanabhan, the plaintiff herein.

2. That the plaintiff herein, be and is hereby further directed to render true and correct accounts once in a year.

WITNESS THE HON'BLE MR. JUSTICE MUNISHWAR NATH BHANDARI, CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 29th DAY OF APRIL, 2022.

Sd./-

JOINT REGISTRAR (O.S)

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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06.06.2022

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T.O.S No. 15 of 2017
(O.P.No. 667 of 2012)

ORDER

DATED : 29.04.2022

THE HON'BLE MRS. JUSTICE
V.BHAVANI SUBBAROYAN

FOR APPROVAL: 07.06.2022

APPROVED ON : 07.06.2022



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.04.2022

CORAM

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

T.O.S.No. 15 of 2017

P.Padmanabhan

..Plaintiff

-Vs-

1. P.Jayalakshmi
2. P.Shantha Bai [deceased]
[Amended as per the order
dated 10.07.2019]
3. P.Indirani

..Defendants

This suit has been filed under the Indian Succession Act XXXIX of 1925 for the grant of Letters of Administration.

For Plaintiff : Mr.R.Vijayaraghavan

For Defendants : Mr.A.Kothandaraman

J U D G M E N T

The plaintiff has originally filed a petition in O.P.No. 667 of 2012, for grant of Letters of Administration. Since caveat has been filed, the said petition was later converted as a suit and was renumbered as T.O.S.No. 15 of 2017.

2. The case of the plaintiff/petitioner as stated in the Original Petition is as follows:-



Thirupurasundariammal and the defendants / respondents are the daughters and they are the only surviving legal heirs of the said deceased. The late Thirupurammal @ Thirupurasundariammal during her life time executed a Will dated 30.08.1996 and registered before the Sub Registrar, Kodambakkam, as Document No.162 of 1996. The Will was attested by two witnesses, namely, G.Sekar and S.Varadarajan and they are not related to the testator, namely, Thirupurammal @ Thirupurasundariammal. Subsequent to the said Will, Thirupurammal @ Thirupurasundariammal died on 18.12.2000 at No.9, Sowrashtra Nagar, II Street, Choolaimedu, Chennai – 94 and she was in good health and in a sound state of mind at the time when she had executed and registered the Will. The testator was not subjected to compulsion, coercion, undue influence, threat or force for executing the Will and the testator did not appoint any person as the executor of the Will and bequeathed the schedule mentioned properties in the manner said in the plaint to the plaintiff, who is the son of the testatrix. The amount of assets likely to come into the plaintiff's hand does not exceed in aggregate a sum of Rs.30,00,000/- and the net amount of the said assets after deducting all items which the plaintiff is by law allowed to deduct is only to the same value of Rs.29,99,000/-. No application has been made by the plaintiff before any District Court or Delegate or to any other High Court for the probate of any Will of the said deceased or Letters of



Administration.

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3. The learned counsel for the plaintiff contends that since the plaintiff is bedridden and cannot even withstand sitting for more than 5 minutes, has taken out an Application No.9245 of 2019 to appoint an Advocate Commissioner to examine the plaintiff and to record his evidence in the residence of the plaintiff. Considering the reasons culled out in the affidavit, the said application was allowed on 09.12.2019. Subsequently, a report dated 08.02.2020 was filed by the Advocate Commissioner, wherein it is indicated that the Proof affidavit of the plaintiff (P.W.1) was executed in the presence of the advocate commissioner and a copy was served on the learned counsel for the defendants. The Original Will dated 30.08.1996 was marked as Ex.A.1. Ex.A.2 is the Computer generated Death certificate of Thirupurammal @ Thirupurasundariammal. The Original Legal heirs certificate dated 31.07.2002 of Mrs.Thirupurammal @ Thirupurasundariammal was marked as Ex.A.3. Further, the affidavits of attesting witnesses, viz., G.Sekar and S.Varadarajan has also been filed, wherein it is stated that at that point of time, viz., when the will was executed by the testatrix Thirupurammal @ Thirupurasundariammal, she was in a sound and disposing mind, memory and understanding, therefore, the plaintiff seeks to grant the Letters of Administration to the plaintiff.



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4. On the other hand, the learned counsel for the defendants has filed a consent affidavits of the defendants, viz., P.Jayalakshmi and P.Indrani indicating that 'at the intervention of the well-wishers, the defendants settled all the issues amicably among themselves and that they have no objection to grant probate in respect of the Will dated 30.08.1996 in favour of the plaintiff, as prayed by him'.

5. Heard the learned counsel on either side and perused the pleadings, documents and the consent affidavits on record.

6. On scrutinising the documents it is clear that the Will was executed by Thirupurammal @ Thirupurasundariammal, viz., mother of the plaintiff and the defendants. Even according to the learned counsel for the plaintiff, the defendants have given their consent affidavits indicating no objection for grant of probate to the plaintiff and the attesting witnesses to the Will, viz., G.Sekar and S.Varadarajan have also filed their respective affidavits duly signed by them stating that Thirupurammal @ Thirupurasundariammal at the time of executing the Will was in sound and disposing mind.



7. The defendants, viz., P.Jayalakshmi and P.Indirani, who filed consent affidavits, appeared in-person before this Court. This Court verified the identification of the defendants and the contents in the consent affidavits are read over to the parties and enquired whether the said consent affidavits are signed by them on their own volition. In reply, Mrs.Jayalakshmi as well as Mrs.Indrani, stated that in order to give quietus to the issue they have given the said consent affidavits and contented that they have no objection for the grant of Letters of Administration to their brother, viz., plaintiff.

8. That apart, the defendants would also contend that the plaintiff is in possession of various properties and some other properties, may be allotted to them, for which, the learned counsels have submitted that the plaintiff has filed a suit for partition in the other properties against the defendants and the same is pending in O.S.No.9137 of 2021 before the learned XVI Judge, City Civil Court, Chennai. The learned counsels have also produced an undertaking given by the plaintiff in the said suit, by way of a promissory note dated 15.04.2022, wherein it is averred by the plaintiff that as per the wish of their mother, viz., Thirupurammal @ Thirupurasundariammal and another sister, viz., Shantha Bai (deceased), the following properties are bequeathed to the defendants and their legal heirs,



in which, the plaintiff as well as his legal heirs will not claim any right or his share whatsoever:

Details of the property:

1. Late Thirupurammal @ Thirupurasundariammal (mother)

No.1, Sourashtra Nagar 1st Street, Choolaimedu, Chennai -94

2. P.Indrani (sister)

No.1/1, Sourashtra Nagar 1st Street, Choolaimedu, Chennai -94

3. Late Shantha Bai (sister)

No.1/2, Sourashtra Nagar 1st street, Choolaimedu, Chennai -94

4. P.Jayalakshmi (sister)

No.1/3, Sourashtra Nagar 1st street, Choolaimedu, Chennai -94

5. Late P.Shantha Bai

No.16/2, Sourashtra Nagar 1st street, Choolaimedu, Chennai -94

6. Late P.Shantha Bai

2400 Sq.ft., of land, Peerkankaranai, Perungulathur.

Further, the plaintiff also undertook to withdraw the said suit as well as the other suits before the courts below, which were pending in respect of the above said properties.

9. That apart, the plaintiff undertakes to duly administer the



Thirupurasundariammal, the deceased and in any way concerning her Will by paying first her debts and then the legatees therein, in so far as the asset bequeathed to her and to make a full and true inventory thereof and exhibit the same in this Court within six months from the date of grant of letters of administration with the Will annexed to the petition and to render to this Court a true account of the said properties and credits within one year from the said date.

10. Considering the consent affidavits filed by the defendants, expressing no objection for the grant of letters of administration to the plaintiff and the affidavits filed by the attesting witnesses, viz., G.Sekar and S.Varadarajan, on execution of the Will, which is proved in accordance with law in respect of the Will executed by the deceased Thirupurammal @ Thirupurasundariammal having effect throughout the State of Tamil Nadu, this Court is of the view that there is no impediment in granting Letters of Administration in favour of the plaintiff.

In view of the above stated position, this Court is of the view that the plaintiff is entitled to the grant of Letters of Administration.

Accordingly, the Testamentary Original Suit is ordered and a direction is issued for the grant of Letters of Administration to the plaintiff. The



plaintiff is also directed to execute a Security bond for a sum of Rs.25,000/- in favour of the Assistant Registrar (O.S.II) High Court, Madras. The plaintiff is further directed to render true and correct accounts once in a year.

Sd./- V.B.S.J
29.04.2022

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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