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O.P.No. 428 of 2021

C.V.KARTHIKEYAN, J.

This is second order passed in the Original Petition. The earlier order is dated 07.07.2022. At that point of time, it was not brought to the notice of the learned Judge that the fourth petitioner Kumar had actually died on 02.05.2021. Therefore the said order dated 07.07.2022 had been unfortunately passed in the teeth of the death of one of the petitioners. The said deceased / petitioner Kumar, was a legal heir of the first petitioner, who was one of the beneficiaries under the Will for which Letters of Administration was sought.

2. Naturally this makes the order non est and necessitated a fresh order to be passed after necessary amendment had been brought in noting the death of the fourth petitioner, Kumar and also noting that the other petitioners 5, 6 and 7 are his legal heirs and they are already on record. Necessary amendment had been carried out consequent to the order passed in A.Nos. 4334 & 4335 of 2022 dated 27.09.2022.



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3. The first, second and third petitioners are the daughters of Yasoda Ammal and Arumuga Chettiyar, who had jointly executed a registered Will dated 27.03.2003 which had been registered as Document No. 33 of 2003 in the Office of the Sub Registrar, Purassaivakkam, Chennai. P.Arumuga Chettiyar passed away on 03.08.2011 and Yasoda Ammal passed away on 24.05.2016. The__will came into effect thereafter. The petitioners/daughters had therefore filed the present Petition seeking Letters of Administration with Will annexed.

4. The respondents are the sons of Yasoda Ammal and P.Arumuga Chettiyar / brothers of the petitioners. Service had been completed. They had taken a conscious decision not to appear before this Court. It is stated by the learned counsel that, other properties had been settled in the names of the respondents and therefore, they do not have any claim on the particular properties now bequeathed to the petitioners by the Will.

5. Pending the Petition, the first petitioner died. This necessitate her legal representatives to be brought on record as Petitioner Nos. 4, 5, 6 and 7.

6. As stated, after completing necessary process, the



petitioners were directed to tender evidence and an order on the basis of the evidence tendered came to be passed on 07.07.2022. It then came to the knowledge of the learned counsel that the fourth petitioner Kumar had actually died on 02.05.2021. His death certificate had to be marked as evidence. This Court had directed so and accordingly, PW-1 had tendered further evidence and the death certificate of Kumar was marked as Ex.P-19.

7. Quite apart from this particular document, it must be mentioned that PW-1 had also marked the death certificate of her father P.Arumuga Chettiyar as Ex.P-8 and of her mother Yasoda Ammal as Ex.P-10 and the legal heirship certificate of her mother as Ex.P-12. The Will was marked as Ex.P-7. The affidavit of assets was marked as Ex.P-15.

8. Mr.B.Ravi was examined as PW-2 and his affidavit was marked as Ex.P-18. He was one of the attesting witness and he identified the Will and also the signatures of the two executors of the Will.

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9. In view of the evidence presented, this Original Petition stands allowed and Letters of Administration with Will annexed is granted to the petitioners. It is also seen that the petitioner Nos. 1, 2 and 3 were each entitled to 1/3rd share and naturally owing to the death of the first petitioner, her share will fall to her legal heirs and her surviving legal heirs are the petitioner Nos. 5, 6 and 7. Therefore, with respect to the property, 1/3rd share will devolve on the second petitioner, another 1/3rd share will devolve on the third petitioner and the remaining 1/3rd share will devolve jointly on the petitioner Nos. 5, 6 and 7.

27.10.2022

Index:Yes/No
Internet :Yes/No
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Note: Issue order copy on 02.11.2022

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