



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2023

CORAM:

**THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN**

**T.O.S No.27 of 1995**

1.Deivasigamani (deceased)  
2. D. Anusuya  
3. D. Senthil kumar  
4. D. Selvakumar  
(Plaintiffs 2 to 4 are the L.Rs amended as per order  
dt 13.12.2022 vide A.No.4237/2022)

... Plaintiffs

Vs

1. S.Kalaimathi  
2.K. Deepa Rani  
3. S. Nivedhitha

... Defendants

**Prayer:** Testamentary Original Suit filed under Sections 232 and 276 of the Indian Succession Act XXXIX of 1925 for the grant of Letters of Administration. As per order of this court dated 15.03.1995 in A.No.1091 of 1994, the Original Petition has been converted into Testamentary Original Suit No.27 of 1995.

For Plaintiffs : M/s.C.K.Vishnupriya

For Defendants : Ms. S. Thamizharasi

**J U D G M E N T**

The Testamentary Original Suit is filed for grant of Letters of Administration in respect of the last Will and Testament of the deceased Dhanalakshmi Ammal.



2. The brief facts of the case of the plaintiffs are as follows:

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The plaintiffs 2 to 4 are the wife and sons of the first plaintiff Deivasigamani. The deceased Dhanalakshmi Ammal died on 01.12.1991 leaving behind the first plaintiff as her son and her daughter namely Brahrambigai. The mother and husband of the deceased pre-deceased her. The first testatrix Sankaranarayanan pre-deceased the deceased on 08.09.1981 leaving behind his wife and daughters. The writing annexed and marked by the petitioner is the Last Will and Testament of the deceased Dhanalakshmi Ammal. The said Will was executed in the presence of two witnesses on 26.12.1990 and registered in the office of the Sub-Registrar, Rayapuram, Madras as Doc No.3/1990 in Book III, Volume 107. The amount of assets does not exceed in the aggregate sum of Rs.2 lakhs and the net amount of the said assets after deducting all items is Rs.2 lakhs only. No application has been made to any District Court or delegate or to any other High Court for grant of Probate of any of the Will of the deceased or letters of Administration with or without Will annexed of the deceased with the description of properties and credits. The first plaintiff undertakes to duly administer the properties and the credits of the said deceased Dhanalakshmi Ammal and in any way concerning her Will



by paying her debts and then legacies therein bequeathed as the assets still extend and making full and true inventory thereof and exhibit the same to this court within six months time from the grant of letters of Administration and also render to this court true account of the said properties and credits within one year from the said date. Hence, he prays to grant Letters of Administration.

3. In the written statement, filed by the Defendants, the genuineness and validity of the alleged Will are challenged, stating that it is a concocted document and hence, the Plaintiffs are not entitled to any relief, as prayed for in this Testamentary Original Suit.

4. On the pleadings of the parties and the draft issues filed by the Plaintiffs and the Defendants, the following issues were framed for determination:-

*(a) Whether the Will dated 26.12.1990 is true and valid?*

*(b) Whether the petitioner is entitled to Letters of Administration of the last Will and testament of Dhanalakshmi Ammal??*



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5. On the side of the Plaintiff, PW.1 was examined and Ex.P1 to Ex.P12 were marked.

6. This Court heard the learned counsel on either side, considered their submissions and also perused the materials placed on record.

7. The fourth plaintiff was examined as P.W.1 and he had narrated the averments made in the petition stating that the first plaintiff has filed the main original petition for the grant of Letters of Administration in his favour in respect of the Will/Ex.P2.

8. When the matter was taken up today, the learned counsel for the plaintiffs submitted that the consent affidavit of the defendants have already been filed stating that they have accord their consent for the grant of Letters of Administration annexed with the Will in favour of the plaintiffs who are the Legal Representatives of late Deivasigamani which have been duly signed by the defendants. In and by the said consent affidavits, which were marked as Ex.P10 to Ex.P12, in which, the



defendants have accord their consent for the grant of letters of administration annexed with the Will in favour of the Plaintiffs who are the legal representatives of late Deivasigamani.

9. Though there is no objection in granting letters of administration in favour of the Plaintiffs on the side of the Defendants, by entering into a consent affidavit as stated above and the Will is also admitted by the Defendants as genuine, even an admitted Will needs to be proved in the manner known to law. In this regard, the evidences let in by the parties are to be looked in a proper and perspective manner.

10. On perusal of records, it is seen that the attesting witnesses namely M.Venkataramaniah and Dr.MS.MD.Aboobucker died and in proof of the same, their death certificates were marked through PW1 as Ex.P5 and Ex.P6 dated 12.11.2009 and 16.03.2011 respectively.

11. Taking note of the fact that the evidences of P.W.1 and the documents filed on behalf of the plaintiffs and that the defendants have also given consent affidavits for grant of Letters of Administration in



favour of the plaintiffs, this Court is of the view that the plaintiffs are entitled for the issuance of Letters of Administration in their favour.

12. Accordingly, this Testamentary Original Suit is decreed as prayed for. Issue Letters of Administration in respect of the Will dated 26.12.1990 in favour of the plaintiffs. The plaintiffs are directed to duly administer the properties and credits of the deceased. The plaintiffs are 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. The plaintiffs are further directed to render true and correct accounts once in a year. Considering the relationship between the parties, there shall be no order as to costs.

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Index : Yes/No  
Speaking/Non-speaking order  
gv

**Witnesses examined on the side of the plaintiffs:**

**P.W.1. - D. Selvakumar**



**Exhibits produced on the side of the plaintiffs:**

| S.No. | Exhibits | Date       | Description                                             |
|-------|----------|------------|---------------------------------------------------------|
| 1.    | P-1      | 24.02.1992 | Death Certificate of Dhanalakshmiammal                  |
| 2.    | P-2      | 26.12.1990 | Will                                                    |
| 3.    | P-3      | 27.12.2021 | Copy of Death Certificate of V.Deivasigamani            |
| 4.    | P-4      | 14.02.2022 | Legal heir Certificate of V. Deivasigamani              |
| 5.    | P-5      | 12.11.2009 | Photocopy of death certificate of M. Venkataramaniah    |
| 6.    | P-6      | 16.03.2011 | Photocopy of death certificate of Dr.M.S.MD. Aboobucker |
| 7.    | P-7      | ----       | Photocopy of Aadhar card of D. Anusuya                  |
| 8.    | P-8      | ---        | Photocopy of Aadhar card of D.Senthil Kumar             |
| 9.    | P-9      | ---        | Photocopy of the Aadhar card of D. Selvakumar           |
| 10.   | P-10     | ...        | Consent affidavit of S.Kalaimathi                       |
| 11.   | P-11     | ----       | Consent affidavit of K. Deepa Rani                      |
| 12.   | P-12     | ---        | Consent affidavit of S. Nivedhitha                      |

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**A.A.NAKKIRAN,J.**

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