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O.P.No.739 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 11.07.2023

PRONOUNCED ON : 24.07.2023

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No.739 of 2022

B.Abirama Sundari

...

Petitioner

versus

Nil

...

Respondent

PRAYER: Original Petition filed under Sections 232 and 276 of the Indian Succession Act XXXIX of 1925 read with Order XXV Rule 5 of Original Side Rules, prays that the Letters of Administration with Will annexed to the petitioner as beneficiary grand daughter under the Will of the deceased N.Thilagavathi dated 12.01.2004 having effect limited to the State of Tamil Nadu.

For Petitioner

:

Mr.R.Chitraputhiran

ORDER

This Original Petition has been filed by the petitioner seeking grant of Letters of Administration in respect of the Will dated 12.01.2004 executed by late N.Thilagavathi, who died on 23.09.2016.



2. Heard the learned counsel for the petitioner and perused the materials available on record.

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3. The petitioner is the granddaughter of the deceased N.Thilagavathi; the petition mentioned property was originally purchased by one N.Kanakasabapathy by virtue of a sale deed dated 13.07.1970; subsequent to the purchase of the property, Kanakasabapathy and his sisters Sarathamani and Thilagavathi constructed a superstructure to the extent of 907 sq.ft. and they were residing as a joint family in the said property. All the three of them remained unmarried.

3.1. After the demise of Kanakasabapathy and Sarathamani, the then surviving sister Thilagavathi inherited the petition mentioned property and enjoyed the same as its absolute owner; during her lifetime Thilagavathi executed a registered Will dated 12.01.2004 by bequeathing the property in favour of the petitioner B.Abirama Sundari and Kiruba Sundari who are the grand-nieces of the testatrix; among the two beneficiaries Kiruba Sundari also died on 10.03.2016 without leaving any legal heir; the said Will is the last Will executed by the testatrix; the testatrix did not appoint any executor in the Will; even though the petitioner was aware of the existence of the



Will she was not aware of the legal requirements, only when she was about to sale the property she came to know about the necessity of obtaining Letters of Administration and hence she filed this petition.

4. The petitioner herself has been examined as P.W.1 and one of the attesting witnesses of the Will was examined as P.W.2. On the side of the petitioner, the following documents were marked as Ex.P.1 to Ex.P.17.

Ex.P1	Photocopy of the sale deed dated 13.07.1970 in favour of M.N.Kanakasabapathy
Ex.P2	Photocopy of the death certificate of Kanakasabhapathy
Ex.P3	Computer generated death certificate of N.Saradamani
Ex.P4	Original Will dated 12.01.2004 executed by N.Thilagavathy
Ex.P5	Photocopy of the Encumbrance Certificate dated 26.02.2004 for the period of 01.01.1987 to 24.02.2004
Ex.P6	Photocopy of the another Encumbrance Certificate dated 10.03.2004 for the period of 01.01.1970 to 31.12.1986
Ex.P7	Photocopy of the relationship certificate of N.Thilagavathy dated 23.03.2004 issued by Tahsildar, Mambalam
Ex.P8	Photocopy of the letter dated 25.03.2004 given to the Revenue Officer, Corporation of Chennai by N.Thilagavathy to transfer house tax from the name of N.Kanakasabapathy to N.Thilagavathy
Ex.P9	Photocopy of the order of name transfer dated 07.04.2004 issued by Corporation of Chennai changing the house tax name from N.Kanakasabapathy to N.Thilagavathy



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Ex.P10	Photocopy of the death certificate of Kirubasundari
Ex.P11	Computer generated death certificate of N.Thilagavathy
Ex.P12	Photocopy of the property tax demand card of N.Thilagavathy
Ex.P13	Photocopy of the water and sewage tax charges card of N.Thilagavathy
Ex.P14	Photocopy of the demand notice for property tax revision for the year 2018-2019 dated 08.10.2018 issued by Chennai Corporation to N.Thilagavathy
Ex.P15	Affidavit of assets showing the net value of estate as Rs.1,77,91,640/-
Ex.P16	Copy of the paper publication effected in one issue of Tamil Daily “Makkal Kural” dated 28.03.2023
Ex.P17	Copy of the paper publication effected in one issue of English Daily “Trinity Mirror” dated 06.04.2023

5. The petitioner was examined as P.W.1 and he has produced the sale deed in favour of Kanakasabapathy as Ex.P.1 and death certificate of Kanakasabapathy as Ex.P.2; the death certificate of the sister of N.Thilagavathi has also been produced as Ex.P.3; the original registered Will executed by the testatrix is available as Ex.P.4; out of two beneficiaries, one of the beneficiaries by name Kiruba Sundari also died; paper publications effected in one issue of Tamil and English dailies did not



attract any objectors; the testatrix also remained unmarried and she had no issues of her own.

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It is the submission of P.W.1 is that though she was aware of the Will dated 12.01.2004 and testatrix died on 23.09.2016, she did not know the legal requirements and hence filed this Original Petition seeking grant of Letters of Administration in a delayed manner. In the absence of any objectors and also considering the fact that the Will is also registered one, I find no reason to draw any suspicion about the Will due to the delay made in filing this petition.

7. One of the attesting witnesses was examined as P.W.2 R.M.Ganga Pavani and she has stated in her evidence that the testatrix N.Thilagavathi was a neighbour and knew her for a long time. She has also stated that she subscribed her signature as the second attesting witness along with Dr.T.Pethammal who is another attestor. She had stated that she saw the testatrix N.Thilagavathi signing the Will in her presence and that she was in a sound disposing state of mind at the time of executing the Will. The Will which is produced as Ex.P.4 would show that it would fulfill the essential requirements of Section 63(c) of the Indian Succession Act with



the evidence of the attester the Will has also been proved in accordance with Section 68 of the Indian Evidence Act.

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8. Since the materials produced before this Court prove the claim of the petitioner for grant of Letters of Administration, I feel that the relief sought by the petitioner should be granted.

9. In view of the above, this Original Petition is ***allowed*** by granting Letters of Administration to the petitioner in respect of the Will dated 12.01.2004 of the testatrix N.Thilagavathi. The petitioner shall execute a bond for a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only) in the name of the Assistant Registrar (Original Side) of this Court**. The petitioner is further directed to file an inventory of assets and statement of accounts within a period of six months and one year, respectively.

24.07.2023

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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**Petitioner's witness:-**

P.W.1	B.Abirama Sundari
P.W.2	R.M.Ganga Pavani

Documents exhibited by the petitioner:-

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R.N.MANJULA, J.

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Pre-Delivery Order made in
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