



O.P.No.43 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2023

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No.43 of 2023

Mrs.Rekha Tevib Balaji @ Rekha Devi Boopalan

... Petitioner

Vs.

1.R.Boopalan

2.B.Shankar Prasad

.... Respondents

PRAYER : Original Petition is filed under Section 232 & 276 of the Indian Succession Act, 1925 r/w. Order XXV, Rule 5 of Original Side Rules seeking for grant of Letters of Administration with the Will annexed to the petitioner as the legatee under the Will of the deceased having effect limited to the State of Tamil Nadu.

For Petitioner : Ms.R.V.Gayatri

ORDER

This Original Petition has been filed under Section 232 & 276 of the Indian Succession Act, 1925 r/s Order XXV, Rule-5 of Original Side Rules seeking for grant of Letters of Administration with the Will annexed of the properties and credits of deceased to the petitioner.



O.P.No.43 of 2023

2. The averments in the petition are as follows:-

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The petition mentioned property was originally belonged to one Saraswathi Boopalan who is the mother of the petitioner. The first respondent is the petitioner's father and husband of Saraswathi Boopalan. The second respondent is the son of the first respondent and brother of the petitioner. Saraswathi Boopalan died on 09.08.2020 by leaving behind her husband and two children as her legal heirs. She also executed a Will during her life time on 27.11.2014 by bequeathing the petition mentioned property in favour of the petitioner herein. The first respondent is the father of the petitioner who stood as an attestor of the Will and the second respondent received notice and did not file any objections. Since Saraswathi Boopalan died on 09.08.2020 the Will came into force. Therefore, the petitioner has filed this Petition seeking Letters of Administration.

3. The petitioner examined herself as P.W.1 and Exhibits P1 to P9 were marked.

4. Ex.P1 is the death certificate of the mother of the petitioner and that would show that Saraswathi Boopalan died on 09.08.2020. The legal heir certificate which is marked as Ex.P2 would show that the petitioner and



O.P.No.43 of 2023

the respondents are the only surviving legal heirs of the deceased Saraswathi Boopalan. The Will dated 27.11.2014 is marked as Ex.P3. Paper publication effected in one issue of Tamil Daily “Makkal Kural” dated 05.08.2023 and in one issue of “Trinity Mirror” dated 12.08.2023, did not attract any objectors. The first respondent given his consent and his consent affidavit is marked as Ex.P5.

5. The first respondent is examined as P.W.2 and he has stated in his evidence that he is the second attesting witness in the Will. He has stated that he was present at the time when the Will was executed and he and the other attesting witness Vadivelu had seen Saraswathi Boopalan signing the Will. He also stated that he had affixed his signature as one of the attesting witness along with Vadivelu. At the time of execution of the Will, the testatrix was in a sound disposing state of mind.

6. With the statement of P.W.1 and P.W.2 and other documents in record, the petitioner has proved that the Will has been executed in terms of Section 63(c) of the Indian Succession Act and its genuineness is proved in accordance with Section 68 of the Indian Evidence Act.



O.P.No.43 of 2023

7. Hence, this Original Petition is allowed by granting Letters of Administration to the petitioner with the Will dated 27.11.2014 of Saraswathi Boopalan annexed thereto. Such Letters of Administration shall have effect throughout the State of Tamilnadu. The petitioner is directed to execute a security 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.

20.09.2023

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Internet :Yes/No

Index : Yes



O.P.No.43 of 2023

APPENDIX

Petitioner's witness:

P.W.1 – Mr.Rekha Tevib Balaji

P.W.2 – Mr.R.Boopalan

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
P1	The computer generated death certificate of Saraswathi Boopalan issued on 05.10.2020.
P2	The computer generated legal heir certificate dated 21.01.2022.
P3	The original Will executed by Saraswathi Boopalan dated 27.11.2014.
P4	The photocopy of the certificate for changing of name dated 06.01.2014.
P5	The consent affidavit of the first respondent.
P6	The paper publication effected in one issue of “Makkal Kural” dated 05.08.2023.
P7	The paper publication effected in one issue of “Trinity Mirror” dated 12.08.2023.
P8	The affidavit of assets.
P9	The affidavit of the attesting witness.

20.09.2023

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O.P.No.43 of 2023

R.N.MANJULA, J.

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O.P.No. 43 of 2023

20.09.2023