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O.P.No.88 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2023

CORAM

THE HONOURABLE **MR.JUSTICE K.KUMARESH BABU**
O.P.No.88 of 2022

1.Mr.S.Alaivai Arasu
2.Mrs.Senthil Vadivu
3.Abirami Valli ... Petitioners

Vs

Mrs.Premavathi ... Respondent

PRAYER: Original Petition filed for Letters of Administration under Sections 232 and 276 of Indian Succession Act 1925 under Order XXV Rule 5 of Original Side Rules seeking for Letters of Administration with the Will annexed may be granted to (I) S.Alaivai Arasu son of the deceased testator, (ii) Mrs.Senthil Vadivu daughter of the deceased testator, (iii) Mrs.Abirami Valli daughter of the deceased testator, as the beneficiaries under the will of the said deceased having effect throughout the State of Tamil Nadu.

For Petitioners : Mr.T.Karunakaran

For Respondents : Mr.G.Karthick

ORDER

This Original Petition has been filed for issuance of Letters of Administration in respect of the Will dated 09.08.1995 executed by late Subbaraya Mudaliyar, who died on 16.11.2002. The 1st petitioner is the son



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and petitioners 2 and 3 are the daughters and respondent is the daughter in-law of the testator. The petitioners are the beneficiaries under the said Will.

The petitioners seek issuance of Letters of Administration in respect of the properties situate within the jurisdiction of this Court.

2. The 1st petitioner has been examined as P.W.1. He has produced the death certificate of the testator Subbaraya Mudaliyar, as Ex.P10. The Original Will dated 09.08.1995 has been produced as Ex.P1. The respondent has expressed her consent to grant Letters of Administration in favour of the petitioners, and the consent affidavit is marked as Ex.P12. A paper publication has been made and any objections have not been received.

3. The petitioner has examined one Mr.Sundramurthy, who is the attesting witness to the said Will as P.W.2. He has spoken about the execution of the Will by the testator and its attestation by himself and Mr.K.K.Shanmugam. One Mr.Rajasekar, son of the second attestor was examined as P.W.3, he has identified the signature of K.K.Shanmugam, who had died on 02.04.2019.

4. In view of the above, this Original Petition is ordered and Letters



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of Administration are granted in favour of the petitioners, in respect of the Will dated 09.08.1995 of the testator Subbaraya Mudaliar. The petitioners are 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 petitioners are further directed to file an inventory of assets and statement of accounts within a period of six months and one year, respectively.

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Index :Yes/No

Speaking: Yes/ No

Neutral Citation: Yes/No

Petitioner's witness:

P.W.1 —Mr.S.Alaivai Arasu

P.W.2 – Mr. Sundramurthy

P.W.3 – Mr.Rajasekar

Documents exhibited by the petitioners:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Original Will dated 09.08.1995 executed by Mr.M.Subbaraya Mudaliyar
Ex.P2	Photocopy of the Sale Deed dated 21.06.1948, executed in favour of Mr.Subbaraya Mudaliyar
Ex.P3	Photocopy of the Sale Deed dated 09.05.1960 executed in favour of Mr.Subbaraya Mudaliar
Ex.P4	Photocopy of the Sale Deed dated 06.10.1962 executed in



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<i>Exhibits</i>	<i>Documents</i>
	favour of Mr.Subbaraya Mudaliyar
Ex.P5	Photocopy of the unregistered Sale Agreement dated 10.03.1974
Ex.P6	Photocopy of the Sale Deed dated 13.03.1974 executed in favour of Mr.Subbaraya Mudhaliar
Ex.P7	Photocopy of the Settlement Deed dated 19.02.1976 executed by the Mr.Subbaraya Mudaliar in favour of Mr.Sivakumar and 1 st petitioner
Ex.P8	Photocopy of the registered Will dated 31.07.1989 executed by Mr.Subbaraya Mudaliar
Ex.P9	Photocopy of the cancellation deed dated 31.07.1995 cancelling the earlier settlement deed
Ex.P10	Photocopy of the death certificate of Mr.M.Subraya Mudaliar
Ex.P11	Computer generated death certificate of Mrs.S.Durai Kannammal
Ex.P12	Consent affidavit given by the respondent
Ex.P13	Affidavit of assets showing the net value of the estate as Rs.1,85,73,580/-
Ex.P14	Copy of paper publication effected in one issue of Tamil daily "Dina Kural" dated 16.11.2022
Ex.P15	Copy of paper publication effected in one issue of English daily "Southern Mail", dated 24.11.2022
Ex.P16	Signature, name and address of 1 st Attesting Witness in the will (Ex.P1) document No.54.1995 executed by the testator late Mr.Subbaraya Mudhaliyar
Ex.P17	Affidavit of attesting witness of Mr.Sundramurthy P.W.2
Ex.P.18	Signature, name and address of 2 nd Attesting Witness in the will (Ex.P1) document No.54.1995 executed by the testator late Mr.Subbaraya Mudhaliyar
Ex.P.19	Computer generator Death certificate of late K.K.Shanmugham
Ex.P.20	Computer generator Legal heirship certificate of late



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<i>Exhibits</i>	<i>Documents</i>
	K.K.Shanmugham
Ex.P.21	Photocopy of Aadhaar card of Mr.Rajasekar/P.W.3

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