



O.P.No.291 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **12.09.2023**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No.291 of 2022

C.R.Madhanmoghan

... Petitioner

Vs.

1.R.Vasantha Kalyani

2.R.Srinivasan

3.K.Priyanka

4.K.Sendhilnathan

5.Kumara Jothi

.... 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 : Mr.S.Praveen Kumar

ORDER

This Original Petition has been filed under Sections 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.



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

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The petition mentioned properties were originally belonged to the father of the petitioner by name M.Rangaswamy. The said M.Rangaswamy died on 13.12.2020. During his life time, he executed a registered Will dated 30.01.2018 by bequeathing the petition mentioned properties in favour of his sons and daughters. Since the Will came into effect subsequent to the death of M.Rangaswamy, the petitioner has filed this petition seeking Letters of Administration.

3. The first respondent is one of the sister of the petitioner and the second respondent is the brother of the petitioner. The third respondent is the daughter of the deceased sister of the petitioner. The fourth respondent is the executor appointed in the Will. The fifth respondent is the husband of the deceased sister of the petitioner. It is submitted that the executor has given no objection for issuing Letters of Administration in favour of the petitioner and he is not interested in filing any petition seeking Letters of Administration in his favour.

4. As per the arrangements made in the Will, the first respondent has been bequeathed with Rs.25,00,000/- cash which is a mandatory compensation to her towards her share in Flat No.S1 that is to be borne by



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the petitioner and it is described under 'B' schedule in the Will. The property in Flat No.S1 has been bequeathed in favour of the petitioner absolutely subject to payment of Rs.25,00,000/- to the first respondent. The property in Flat No.F3 has been bequeathed in favour of R.Srinivasan, who is the another son of the testator subject to payment of Rs.7,00,000/- to the petitioner and another sum of Rs.6,00,000/- to his younger sister R.Usha Rani. The property in Flat No.F2 has been bequeathed in favour of Usha Rani. The schedule 'F' property has to be taken by the daughters and sons of the testator equally among themselves.

5. The petitioner examined himself as P.W.1 and one Mrs.R.Anjana Rao has been examined as P.W.2 and Exhibits P1 to P33 were marked.

6. Ex.P11 is the registered Will executed by M.Rangaswamy dated 30.01.2018. Ex.P12 is the death certificate of R.Usha Rani. Ex.P14 is the death certificate of M.Rangaswamy. Ex.P15 is the legal heir certificate of M.Rangaswamy. Ex.P20 to Ex.P24 are the consent affidavit given by the respondents. Ex.P32 & Ex.P33 are the paper publication effected in one issue of Tamil Daily “Makkal Kural” dated 18.03.2023 and in one issue of English Daily “Trinity Mirror” dated 25.03.2023.



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7. One of the attesting witnesses of the Will has been examined as P.W.2 and she has stated in her evidence that herself and the other attesting witness Mr.C.N.Narendra Kumar were present on 30.01.2018 when M.Rangaswamy had executed the Will. She has also stated that the said M.Rangaswamy had affixed his thumb impression in the Will in their presence and they had also affixed their signatures as the attesting witnesses of the Will. The testator was in a sound disposing state of mind at the time of the execution of the Will.

8. With the statement of P.W.1 and P.W.2 and other documents on 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.

9. Hence, this Original Petition is allowed by granting Letters of Administration to the petitioner with the Will dated 30.01.2018 of M.Rangaswamy 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



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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.

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Internet :Yes/No

Index : Yes



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APPENDIX

Petitioner's witness:

P.W.1 – Mr.C.R.Madhanmoghan

P.W.2 –Mrs.R.Anjana Rao

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
P1	The photocopy of the sale deed dated 26.11.1966 executed in favour of M.Rangaswamy.
P2	The photocopy of the sale deed dated 15.07.1970 executed in favour of Mr.Venkatachalam.
P3	The photocopy of the unregistered agreement for joint development dated 23.10.2008 between Mr.M.Rangaswamy and M/s.Brick and Mortar.
P4	The encumbrance certificates dated 11.05.2008 and 06.10.2009.
P5	The encumbrance certificate dated 23.02.2010.
P6	The photocopies of the property tax receipts.
P7	The photocopy of the death certificate of M.Venkatachalam.
P8	The photocopy of the judgment and decree dated 18.01.2016 in O.S.No.372/2014 passed by the District Munsif, Tiruppur.
P9	The death certificate of R.Visalakshi.
P10	The photocopy of the Encumbrance Certificate dated 29.01.2018.
P11	The registered Will dated 30.01.2018 executed by M.Rangaswamy.
P12	The computer generated death certificate of R.Usha Rani.
P13	The computer generated legal heir certificate of R.Usha Rani.
P14	The computer generated death certificate of M.Rangaswamy.
P15	The computer generated legal heir certificate of M.Rangaswamy.
P16	The downloaded copy of the Electricity receipt dated 26.06.2021 standing in the name of M.Rangaswamy.
P17	The downloaded copy of the Patta in respect of the property mentioned in Item 1, standing in the name of M.Rangaswamy.
P18	The downloaded copy of the Patta in respect of the property mentioned in Item 2, standing in the name of M.Rangaswamy.
P19	The photocopy of the petitioner's Aadhaar Card.
P20	The consent affidavit given by 1 st respondent.



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<i>Exhibits</i>	<i>Documents</i>
P21	The consent affidavit filed by 2 nd respondent.
P22	The consent affidavit filed by 3 rd respondent.
P23	The consent affidavit filed by 5 th respondent.
P24	The consent affidavit filed by 4 th respondent.
P25	The photocopy of the Aadhaar Card of the second respondent.
P26	The photocopy of the Aadhaar Card of the third respondent.
P27	The photocopy of the Aadhaar Card of the fifth respondent.
P28	The photocopy of the petitioner's savings account pass book bearing Account No.920010002148513 at Axis Bank.
P29	The original ICICI Bank deposit slips.
P30	The photocopy of the legal heirship certificate of Mr.Venkatachalam.
P31	The affidavit of assets showing the value of the estate as Rs.1,51,70,000/-
P32	The copy of paper publication effected in one issue of Tamil Daily "Makkal Kural" dated 18.03.2023.
P33	The copy of paper publication effected in one issue of English Daily "Trinity Mirror" dated 25.03.2023.

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