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O.P.No.669 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2023

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No. 669 of 2022

Mirza Safder Ali

...

Petitioner

Vs.

1. M.G.Hussain
2. Mazher Hussain
3. Ghulam Ali M
4. Alabegum
5. Zamruth Begum
6. A.Yusuf Ali
7. A.Nasar Ali
8. Begum Jan

....

Respondents

Original Petition is filed under Section 232 & 276 of the Indian Succession Act, 1925 (Act XXXIX of 1925) read with Order XXV, Rule-5 of Original Side Rules, 1956 to grant Letters of Administration with the Will dated 11.04.2008 annexed herein of the properties and credits of deceased to the petitioners as Grandson / beneficiary / legatee under the Will of the deceased late Bee Begum have effect throughout the State of Tamil Nadu.

For Petitioner : Mr.R.Krishna Prasad



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ORDER

This Original Petition has been filed under Section 232 & 276 of the Indian Succession Act, 1925 (Act XXXIX of 1925) and under Order XXV, Rule-5 of Original Side Rules seeking for grant of Letters of Administration with the Will dated 11.04.2008 annexed, to the petitioner as Grandson / beneficiary / legatee under the Will of the deceased Bee Begum, having effect limited to the State of Tamil Nadu.

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

The petition mentioned property originally belonged to one Bee Begum by virtue of a sale deed dated 08.02.2008. The said Bee Begum died on 31.12.2011. The husband of Bee Begum by name Mirza Abbas predeceased her on 31.04.1981. During her lifetime, Bee Begum had executed a Will dated 11.04.2008 by bequeathing the petition mentioned property in favour of the petitioner who is her grandson and son of the first respondent. After the death of Bee Begum, the Will has come into force and hence the petitioner had filed this petition for grant of Letters of Administration.



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3. The petitioner examined himself as P.W.1 and marked Exs.P1 to P16. One of the attesting witness by name M.G.Hussain has been examined as P.W.2 and marked Ex.P17.

4. The death certificate of testator Bee Begum which is marked as Ex.P1 shows that she died on 31.12.2011. From the legal heirship certificate of Bee Begum which is marked as Ex.P2, it is seen that the respondents are her children and they are her only legal heirs. Ex.P14 is the affidavit of assets.

5. Paper publication effected in one issue of Tamil daily “Makkal Kural” on 07.06.2023 and one issue of English daily “Trinity Mirror” dated 15.06.2023 did not attract any objectors.

6. One of the attestors of the Will by name M.G.Hussain had stated in his evidence that he himself along with Yasmin Begum were present at the time when the testator had executed the Will and the testator had affixed her thumb impression in their presence. He further stated that Bee Begum was found to be in sound and disposing state of mind at the time of execution of



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Will and P.W.2 and the other attesting witness have affixed their signatures as attestors of the Will in the presence of the testator. The respondents 1 to 8 have given their consent in favour of the petitioner for grant of Letters of Administration and it has been marked as Ex.P6 to Ex.P13.

7. With the statement of P.W.1 and P.W.2 and other documents in record, the petitioner had 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. Since the petitioner had proved the genuineness of the Will, the relief sought shall be granted.

8. Hence, this Original Petition is allowed by granting Letters of Administration to the petitioner with the Will dated 11.04.2008 of Bee Begum annexed thereto. Such Letters of Administration shall have effect throughout the State of Tamil Nadu. 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.

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APPENDIX

Petitioner's witness:

P.W.1 – Mirza Safdar Ali

P.W.2 – M.G.Hussain

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
P1	Computer generated death certificate of Bee Begum
P2	Computer generated legal heir certificate of Bee Begum
P3	Original Will dated 11.04.2008
P4	Computer generated death certificate of Yasmin Begum
P5	Original sale deed dated 08.02.2008
P6	Consent affidavit of first respondent
P7	Consent affidavit of second respondent
P8	Consent affidavit of third respondent
P9	Consent affidavit of fourth respondent
P10	Consent affidavit of fifth respondent
P11	Consent affidavit of sixth respondent
P12	Consent affidavit of seventh respondent
P13	Consent affidavit of eighth respondent
P14	Affidavit of assets
P15	Copy of paper publication dated 07.06.2023
P16	Copy of paper publication dated 15.06.2023
P17	Affidavit of P.W.2

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