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O.P.No.698 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2023

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No. 698 of 2011

1. Y.S.Krishnamurthy (deceased)
2. Y.Sarojani
3. Y.K.Jayaram
4. C.H.Umadevi
5. J.Kalyani
6. C.Thulasi Priya

...

Petitioners

(Petitioners 2 to 6 are impleaded as legal heirs of the deceased first petitioner vide order dated 29.08.2019 and as per time extended dated 19.09.2019)

Vs.

1. D.V.Lakshmi (Deceased)
2. G.Thiripurasundari
3. V.Dhandapani
4. V.Meenakshisundaram
5. Kamala

....

Respondents

(Respondents 3 to 5 are brought on record as legal heirs of the deceased first petitioner vide order dated 21.02.2014 made in A.No.1254 to 1256 to 1256 of 2014 and delay condoned on 08.03.2016 in A.No.1044 of 2016)

Original Petition is filed under Section 232 & 276 of the Indian Succession Act, 1925 (Act XXXIX of 1925) read with Order XXV, Rule 4 of Original Side Rules, 1956 to grant Letters of Administration with the Will annexed, to the petitioner as the brother / legatee under the Will of the deceased to have effect throughout the State of Tamil Nadu.



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O.P.No.698 of 2011

For Petitioners : Ms.G.Sumithra

For Respondents : Mr.M.Boopathy for R3 to R5

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 annexed, to the petitioner as the brother / legatee under the Will of the deceased to have effect throughout the State of Tamil Nadu.

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

An half share of the petition mentioned property situated at New No.5, Old No.37, of Kothandaraman Koil Street, West Mambalam, Chennai and 1/3rd share in plot bearing No.22, Sampangi Reddy Street, West Mambalam, Chennai said to be the properties belonged to Y.S.Narayanamurthy. The said Y.S.Narayanamurthy died as bachelor on 16.03.2011. During his lifetime, Y.S.Narayanamurthy executed an unregistered Will dated 29.01.2011 by cancelling his earlier Will dated 24.04.2009. By virtue of the said Will, Y.S.Narayanamurthy bequeathed the above said properties in favour of the first petitioner. Since Y.S.Narayanamurthy died, the petitioners have filed this petition seeking



O.P.No.698 of 2011

Letters of Administration.

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2.1. The testator of the Will Y.S.Narayanamurthy remained unmarried and he did not have any Class-I legal heir and the first petitioner is his brother. Apart from the first petitioner, the deceased testator had two sisters and they have been impleaded as respondents 1 and 2. The first respondent died and her legal heirs have been impleaded as respondents 3 to 5. After the death of the Y.S.Narayanamurthy on 16.03.2011, the Will came into effect and the first petitioner had filed this petition for seeking grant of Letters of Administration. During pendency of this petition, the first petitioner Y.S.Krishnamurthy died and his wife, son and daughters are impleaded as as petitioners 2 to 6.

3. The first petitioner examined himself as P.W.1 and Exs.P1 to P5. One of the attesting witness by name G.Balaji has been examined as P.W.2 and Ex.P6 has been marked through him.

4. The death certificate of Y.S.Narayanamurthy is produced as Ex.P1. The unregistered Will dated 29.01.2011 is marked as Ex.P2. Ex.P3 is the affidavit of assets.



O.P.No.698 of 2011

5. Paper publication issued in one issue of Tamil daily “Makkal Kural” dated 12.01.2017 and in one issue of English daily “Trinity Mirror” dated 19.01.2017 did not attract any objectors.

6. In the evidence of P.W.2, he had stated that Y.S.Narayanamurthy executed the Will in his presence and he stood as attester for the same. He further stated that the Will was signed in his presence by the testator.

7. Even though the respondents cross-examined P.W.2, the cross-examination did not bring anything adverse to the chief examination of P.W.2. With the statement of P.W.2 and other documents on record, the petitioners have proved that the Will has been executed in terms of Section 63(c) of the Indian Succession Act and its genuineness has been proved in accordance with Section 68 of the Indian Evidence Act. Since the petitioners have 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 petitioners with the Will dated 29.01.2011 of Y.S.Narayanamurthy annexed thereto. Such Letters of Administration shall



O.P.No.698 of 2011

have effect throughout the State of Tamil Nadu. 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.

07.08.2023

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Internet :Yes/No

Speaking: Non speaking

Neutral:Yes/ No



O.P.No.698 of 2011

APPENDIX

Petitioner's witness:

P.W.1 – Y.S.Krishnamurthy

P.W.2 – G.Balaji

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
P1	Computer generated copy of the death certificate of Y.Narayanamurthy
P2	Will dated 29.01.2011 executed by Y.S.Narayanamurthy
P3	Affidavit of assets
P4	Copy of paper publication dated 12.01.2017
P5	Copy of paper publication dated 19.01.2017
P6	Affidavit of P.W.2

07.08.2023

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O.P.No.698 of 2011

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O.P.No. 698 of 2011

07.08.2023