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O.P.No.533 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2023

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No.533 of 2021

T.R.Balaji

... Petitioner

Vs.

1.L.Vijayakumari (deceased)
2.T.R.Harikrishnan
3.G.Gomathy
4.S.Thara Bai
5.T.R.Baskar
6.Mrs.A.Ethirajammal
7.Govindammal
8.V.Murugammal
9.M.Lakshmipathy
10.B.Sangeetha
11.L.Latha

... Respondents

(Respondents 9 to 11 are the legal heirs of the deceased first respondent and they were impleaded as per order dated 07.06.2022 in A.No.1521 of 2022)

PRAYER : Original Petition is filed under Sections 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.B.K.Singh

For Respondents : Mrs.S.Revathy



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ORDER

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

The petition mentioned properties were originally belonged to one P.Bakthavatchalam. During the life time of P.Bakthavatchalam, he executed a registered Will dated 07.06.1994 and bequeathed the petition mentioned properties in favour of his brother Ranganathan. The said Ranganathan also died on 15.10.2016. The petitioner who is the one of the son of Ranganathan, had filed this petition seeking Letters of Administration. The respondents 1 to 5 are the other sons and daughters of Ranganathan.

3. The petitioner examined himself as P.W.1 and Exhibits P1 to P17 were marked.

4. Ex.P1 is the original Will dated 07.06.1994 executed by P.Bakthavatchalam. Ex.P4 is the death certificate of P.Bakthavatchalam.



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Ex.P7 is the death certificate of P.Ranganathan. Ex.P8 is the legal heir certificate of P.Ranganathan. Ex.P11 & Ex.P12 are the paper publication effected in one issue of Tamil Daily “Makkal Kural” dated 08.09.2023 and in one issue of English Daily “Trinity Mirror” dated 12.09.2023. Ex.P13 to P17 are the consent affidavits given by the respondents 1 to 5. It is submitted by the learned counsel for the petitioner that the petitioner could not trace out the Will executed by P.Bakthavatchalam in favour of his brother Ranganathan for all these years. Only because of that, the delay has been caused in filing this Petition.

5. Since the attesting witnesses are not available, Mr.N.Chandrasekaran who is conversant with the signature of the testator has been examined as P.W.2. He stated in the evidence that he knew P.Bakthavatchalam as a family friend and he was also present at the time when the Will was executed and he had seen P.Bakthavatchalam signing the Will. The testator was in a sound disposing state of mind at the time of execution of the Will.

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



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Section 63(c) of the Indian Succession Act and its genuineness is proved in accordance with Section 69 of the Indian Evidence Act.

7. Hence, this Original Petition is allowed by granting Letters of Administration to the petitioner with the Will dated 07.06.1994 of P.Bakthavatchalam 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.

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Internet :Yes/No

Index : Yes



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APPENDIX

Petitioner's witness:

P.W.1 – Mr.T.R.Balaji

P.W.2 – Mr.N.Chandrasekaran

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
P1	The original Will dated 07.06.1994 executed by P.Bakthavatchalam.
P2	The photocopy of the sale deed dated 20.05.1946 executed in favour of Mrs.Kannammal.
P3	The photocopy of the settlement deed dated 04.02.1984 executed in favour of Mr.Ranganathan and Bakthavatchalam.
P4	The photocopy of the death certificate of P.Bakthavatchalam.
P5	The photocopy of the death certificate of Ponnusamy.
P6	The computer generated death certificate of R.Guruvammal.
P7	The computer generated death certificate of P.Ranganathan.
P8	The photocopy of legal heir certificate of P.Ranganathan.
P9	The photocopy of relationship certificate of P.Bakthavatchalam.
P10	The affidavit of assets showing the net value of estate as Rs.60,00,000/-.
P11	The copy of paper publication issued in one issue of Tamil Daily “Makkal Kural” dated 08.09.2023.
P12	The copy of paper publication effected in one issue of English Daily “Trinity Mirror” dated 12.09.2023.
P13	The consent affidavit of first respondent.
P14	The consent affidavit of second respondent.



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<i>Exhibits</i>	<i>Documents</i>
P15	The consent affidavit of third respondent.
P16	The consent affidavit of fourth respondent.
P17	The consent affidavit of fifth respondent.

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