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O.P.No.619 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2023

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No.619 of 2021

S.Jayashanker alias Jayashanker Sharma

... Petitioner

Vs.

Poornima Raina alias S.Poornima

...Respondent

Original Petition is filed under Sections 232,237,235 and 276 of the Indian Succession Act, XXXIX of 1925 read with Order XXV Rule V of the Original Side Rules, the letter of administration with the WILL annexed may be granted to him, as the son of the deceased having effect throughout the Union of India and limited to the properties mentioned in the affidavit of assets.

For Petitioner : Mr.A.Praveen Kumar

ORDER

This Original Petition has been filed under Sections 232,237,235 and 276 of the Indian Succession Act, XXXIX of 1925 read with Order XXV Rule V of the Original Side Rules to grant Letters of administration with the WILL annexed to the petitioner as the son of the deceased having effect throughout the Union of India and limited to the properties mentioned in the affidavit of assets.



O.P.No.619 of 2021

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

The petition mentioned movable and immovable assets originally belonged to the father of the petitioner by name Sankaranarayanan who died on 08.05.2004. The petitioner is the son and the respondent is the daughter of the testator. One of the daughters of the testator by name Meera Sharma died on 19.01.2015. During his lifetime, the said Sankaranarayanan had executed an unregistered Will dated 05.12.1996 by bequeathing his immovable properties in favour of his wife Vijaya Sankaranarayanan and the movable assets in favour of his son who is the petitioner herein. Subsequent to the death of said Sankaranarayanan, the Will came into effect. The mother of the petitioner also died on 14.10.2017. Hence this petition has been filed by the son of the testator for grant of Letters of Administration.

3. During the lifetime of mother of the petitioner, no petition has been filed seeking for Letters of Administration. In fact, the mother of petitioner had also executed a registered Will dated 21.07.2014 by bequeathing the immovable assets gifted to her by her husband in favour of her son who is the petitioner herein. In the said will one Sathyanarayanan has been appointed as the executor. Since the testatrix Vijaya Sankaranarayanan has also died on 14.07.2017, the executor of the Will had filed the Original Petition in O.P.No.621/2021 seeking Probate.



O.P.No.619 of 2021

WEB COPY

4. The petitioner examined himself as P.W.1 and Exs.P1 to P12 were marked.

5. The unregistered will dated 05.12.1996 executed by father of the petitioner is marked as Ex.P1. The death certificate of Sankaranarayanan which is marked as Ex.P2 would show that he died on 08.05.2004. From the legal heirship certificate of the deceased Sankaranarayanan-Ex.P3, it is seen that his wife and three children are his only legal heirs. However it is submitted that one of the daughters of the Sankaranaryanan by name Meera Sharma remains unmarried and she died on 19.01.2015 and her death certificate is marked as Ex.P6. The death certificate of the testator is marked as Ex.P7. The other daughter who is impleaded as respondent in this petition had received notice but did not choose to contest the matter. Paper publication issued in one issue of Tamil Daily “Makkal Kural” on 17.02.2023 and in one issue of English daily “Trinity Mirror” attracted no objectors.

6. One of the attestors of the Will by name V.P.Santhanam has been examined as P.W.2. In his evidence, he had deposed that himself along with one Sridharan were present at the time when the testator had executed the Will and



O.P.No.619 of 2021

they have seen the testator affixing his signature on the Will. He further stated that the testator was found to be in sound disposing state of mind at the time of execution of the Will.

7. With the statement of P.W.1 and P.W.2 and other documents on record, the first 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. Since the petitioner had proved the genuineness of the Will with the relevant documents, 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 05.12.1996 of Sankaranarayanan annexed thereto and the properties mentioned in the affidavit of assets. 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.

22.09.2023

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O.P.No.619 of 2021

APPENDIX

Petitioner's witness:

P.W.1 – S.Jayashanker

P.W.2 – V.P.Santhanam

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
P1	Original unregistered Will dated 05.12.1996 executed by Mr.Sankaranarayanan.
P2	Original Death certificate of Mr.Sankaranarayanan
P3	Photocopy of the Legal Heirship certificate of Mr.Sankaranarayanan
P4	Photocopy of the Sale deed dated 08.02.1971 executed in favour of Mr.S.Sankaranarayanan
P5	Photocopy of the settlement deed dated 07.08.2012 executed by Mrs.Vijaya Sankaranarayanan @ Vijaya and Ms.S.Meera Sharma in favour of Mr.S.Jayashankar Sharma.
P6	Computer generated death certificate of Ms.Meera Sharma
P7	Photocopy of the death certificate of Mrs.Vijaya Sankaranarayanan
P8	Photocopy of the Will dated 21.07.2014 executed by Mrs.Vijaya Sankaranarayanan @ Vijaya
P9	Photocopies of the share certificates standing in the name of Mr.Sankaranarayanan
P10	Affidavit of assets showing the net value of estate as Rs.2,33,84,393/-
P11	Copy of paper publication effected in one issue of Tamil Daily "Makkal Kural" dated 17.02.2023
P12	Copy of paper publication effected in one issue of English Daily "Trinity Mirror" dated 24.02.2023.

22.09.2023

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O.P.No.619 of 2021

R.N.MANJULA, J.

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O.P.No.619 of 2021

22.09.2023