



O.P.No.298 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2023

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

O.P.No.298 of 2022

V.Sasikala
W/o.Vijayakuamr
No.43/56, Avoor Muthaiah Maesthri Street,
New Washermenpet,
Chennai-600 081.

... Petitioner

v.

1. S.Subramani, S/o.Sambhasivam Mudhaliar

2. G.Usha, W/o.Ganesan

3. G.Vasanth, S/o.Ganesan

4. G.Ishwarya, D/o.Ganesan

Petitioners 1 to 4 are residing at

No.4, Old No.10E/1A,

Padmanabha Colony 3rd Street,

Shyshala Girimani Street,

Kaladipet, Thiruvotriyur, Chennai-600 019.

5. Joan Faustine, W/o.Wilson

6. N.Felicia @ Felicia Selvaseeli, W/o.Nelson

... Respondents



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PRAYER: Original Petition filed under Sections 232 and 276 of Part IX of the Indian Succession Act, 1925 and Order XXV Rule 5 of O.S.Rules 1956 prays that to grant Letters of Administration with certified copy of the Will annexed please be granted to her as daughter/sole beneficiary/the legatee under the Will dated 06.10.2014 of the said deceased having effect throughout the State of Tamil Nadu.

For Petitioner : Mr.G.Govarthanan

For Respondents : Mr.R.Muthukrishnan for R1

Ms.N.Fidelia for R5 & R6

ORDER

The petitioner seeks the grant of letters of administration with the Will annexed in respect of the last Will and testament of Mrs.S.Sakunthala.

2. The petitioner states that Mrs.S.Sakunthala, testatrix, was her mother. She executed her last Will and testament on 06.10.2014 in the presence of the two witnesses, whose names were set out at the foot of the Will. It is stated that the said Will was executed at Chennai. The petitioner



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further states that the testatrix died on 02.06.2015. The son of the testatrix, Mr.Subramani, is impleaded as the first respondent. The wife and children of a pre-deceased son, Mr.Ganesan, are impleaded as Respondents 2 to 4. The subsequent purchasers of the immovable asset bequeathed under the Will are arrayed as respondents 5 and 6.

3. In order to establish entitlement to the relief claimed, the petitioner adduced evidence by examining herself as PW1. In course of the examination-in-chief of PW1, the 16 documents listed at the foot of this order were exhibited as Exs.P1 to P16. A certified copy of the Will is on record as Ex.P1. This document discloses that the Will was executed at Chennai on 06.10.2014. Under the Will, the property described in the schedule to this petition is bequeathed in favour of the petitioner. The Will was attested by two witnesses, namely, S.Ganesan and S.Subramani. The death certificate of the testatrix is on record as Ex.P2. This document discloses that she died on 02.06.2015. It also discloses her address. The legal heirship certificate in respect of the testatrix is on record as Ex.P6. This document discloses the names of the petitioner, first respondent, the



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late son of the testatrix, Mr.Ganesan, his wife and children (Respondents 2 to 4). The death certificate of the late Mr.S.Ganesan is on record (Ex.P3).

This document discloses that he died on 26.12.2016. The death certificate of the husband of the testatrix, the late G.Sambasivam, is on record (Ex.P5).

This document discloses that he died on 19.01.2017. The consent affidavits of respondents 1, 2, 4, 5 and 6 are on record. The third respondent is said to have executed a power of attorney in favour of the second respondent and has also consented to the grant of letters of administration to the petitioner. Paper publications were also effected in one issue of the Tamil daily 'Makkal Kural' and one issue of the English daily "Trinity Mirror".

4. One of the attesting witnesses, namely, Mr.S.Subramani, was examined as PW2. PW2 deposed that the testatrix was his mother. He further deposed that the Will was executed in his presence and in the presence of his brother, who was the other attesting witness. In addition, he deposed that his mother was in a sound and disposing state of mind at the time of execution of the Will.



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5. Based on the assertions in the petition and the evidence adduced in support thereof, the petitioner is entitled to the relief prayed for.

Accordingly, O.P.No.289 is allowed by granting letters of administration with the Will annexed to the petitioner. Such Will shall have effect throughout the State of Tamilnadu. The petitioner shall execute a security bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) in favour of the Assistant Registrar (Original Side) of this Court. The petitioner shall file an inventory of assets and statement of accounts within a period of six months and one year, respectively.

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Index : Yes

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Petitioners' witness:

P.W.1 – Mrs.V.Sasikala

P.W.2 – Mr.S.Subramani



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Documents exhibited by the petitioner:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	The certified copy of the Will dated 06.10.2014 executed by Mr.s.Sakunthala (Witness states that the original Will has been produced before the 4 th Additional District Court, Ponneri, Thiruvallur District and the same has been marked as Ex.A5 in O.S.No.13 of 2016 and the same has been averred in the petition and th proof affidavit. This document is marked subject to its admissibility, proof and relevancy.
Ex.P2	The computer generated death certificate of Mrs.S.Shagunthala.
Ex.P3	The computer generated death certificate of Mr.S.Ganesan.
Ex.P4	The photocopy of the Legal Heirship Certificate of Mr.Ganesan (Compared with the original).
Ex.P5	The computer generated death certificate of G.Sambasivam.
Ex.P6	The computer generated Legal Heirship certificate of Mrs.S.Shagunthala.
Ex.P7	The computer generated Legal Heirship certificate of Mr.G.Sambasivam.
Ex.P8	The affidavit of assets showing the net value of the estate as Rs.20,00,000/-.
Ex.P9	The copy of paper publication effected in one issue of Tamil daily “Makkal Kural” dated 15.10.2022.
Ex.P10	The copy of paper publication effected in one issue of English daily “Trinity Mirror” on 21.10.2022.
Ex.P11	The consent affidavit given by the 1 st respondent.
Ex.P12	The consent affidavit given by the 2 nd respondent.
Ex.P13	The consent affidavit given by the 4 th respondent.
Ex.P14	The consent affidavit given by the 5 th respondent.



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<i>Exhibits</i>	<i>Documents</i>
Ex.P15	The consent affidavit given by the 6 th respondent.
Ex.P16	The affidavit of attesting witness

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