



O.P.No.55 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **21.08.2023**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No. 55 of 2023

1. B.Mala
2. S.Santhanakrishnan
3. C.Arunkumar

...

Petitioners

Vs.

1. J.Selvakumar
2. J.Chandhirasekar

....

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 annexed, to the petitioner as the daughter and Grandsons / Legatees and beneficiary under the Will of the deceased E.Janakiraman and J.Dhanalakshmi, to have effect throughout the State of Tamil Nadu.

For Petitioner : Mr.K.S.Ganesh Babu

ORDER



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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 daughter and Grandsons / Legatees and beneficiary under the Will of the deceased E.Janakiraman and J.Dhanalakshmi, to have effect throughout the State of Tamil Nadu.

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

The petition mentioned properties originally belonged to one E.Janakiraman and his wife J.Dhanalakshmi. The first petitioner and respondents 1 and 2 are the children of E.Janakiraman and J.Dhanalakshmi. The said E.Janakiraman and J.Dhanalakshmi died on 28.05.2007, 25.09.2021 respectively. During their lifetime, E.Janakiraman and J.Dhanalakshmi have jointly executed a registered Will dated 28.09.2004 by bequeathing the petition mentioned properties in favour of their daughter the first petitioner herein and the petitioners 2 and 3 who are the grandsons, through the respondents 1 and 2. Since the petitioners 2 and 3 were minor at the time when the Will was executed, their respective father who is the first respondent herein was appointed as respective guardian. However the minors have become major at the time when the testator and testatrix died and the petitioners being the legatees of the Will have jointly filed this petition seeking



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Letters of Administration.

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3. The second petitioner examined himself as P.W.1 and Ex.P1 to P16. A third party by name P.Anbarasu examined as P.W.2 and Ex.P17 was marked.

4. The registered Will dated 28.09.2004 is marked as Ex.P1 and the death certificates of the executors of the Will has been marked as Ex.P2 and P4. From the legal heirship late E.Janakiraman and J.Dhanalakshmi which are marked as Exs.P2 and P5 it is seen that the first petitioner and the respondents 1 and 2 are their only legal heirs. The respondents have given their consent affidavit which are marked as Exs.P13 and P14. Paper publication issued in one issue of Tamil daily “Makkal Kural” and English daily “Trinity Mirror” did not attract any objectors.

5. As both the attesting witnesses are no more, one P.Anbarasu who is the son of one of the attesting witness by name M.Pichiyappan has been examined as P.W.2. The death certificate of the two attestors by name Pichiyappan and Rajendran has been marked as Exs.P8 and P9. P.W.2 had stated in his evidence that his father died on 18.01.2008 and he had also identified his father’s signature in the Will and filed an affidavit to that effect. He would also identify the signatures of the executors of the Will.



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6. With the statement of P.W.1 and P.W.2 and other documents in 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 69 of the Indian Evidence Act. The consent affidavit has been given by the petitioners 2 and 3 to issue Letters of Administration in favour of the first petitioner. Since the first petitioner had proved the genuineness of the Will, the relief sought shall be granted.

7. Hence, this Original Petition is allowed by granting Letters of Administration to the first petitioner with the Will dated 28.09.2004 of E.Janakiraman and J.Dhanalakshmi annexed thereto. Such Letters of Administration shall have effect throughout the State of Tamil Nadu. The first 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 first 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



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Petitioner's witness:

P.W.1 – S.Santhankrishnan

P.W.2 – P.Anbarasu

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
P1	Original registered Will dated 28.09.2004 executed by E.Janakiraman and J.Dhanalakshmi
P2	Computer generated death certificate of E.Janakiraman
P3	Legal heirship certificate of E.Janakiraman
P4	Death certificate of J.Dhanalakshmi
P5	Legal heirship certificate of J.Dhanalakshmi
P6	Birth certificate of Santhana Krishnan
P7	Birth certificate of C.Arunkumar
P8	Death certificate of M.Pitchaippan
P9	Death certificate of Rajendran
P10	Sale deed dated 17.10.1966
P11	Sale deed dated 12.12.1979
P12	Affidavit of assets
P13	Consent affidavits of first respondent
P14	Consent affidavits of second respondent
P15	Paper publication dated 08.07.2023
P16	Paper publication dated 16.07.2023

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