



T.O.S.No.27 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2023

CORAM : JUSTICE N.SESHASAYEE

T.O.S.No.27 of 2015

S.K.Rajagopal

.... Petitioner / Plaintiff

Vs

S.K.Samath

.... Caveator / Defendant

Prayer : Petition filed under Section 232 & 276 of the Indian Succession Act XXXIX of 1995 for the grant of Letters of Administration.

For Plaintiff : Mr.A.S.Narasimhan

For Defendant : M/s.P.B.Ramanujam & P.B.Balaji

JUDGMENT

This testamentary suit is laid for grant of Letters of Administration for the registered Will dated 29.06.2006, executed by late S.Krishnaswamy. Subsequent to the execution of the Will, on 27.03.2007, Krishnaswamy died leaving behind him surviving his wife, the first defendant and three son and a



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daughter. Under the Will, Krishnaswamy chose to bequeath the estate covered under the Will exclusively to the plaintiff. For obtaining Letters of Administration, the plaintiff has laid O.P.No.538 of 2014, in which he has arrayed all the other heirs of his father as respondents 1 to 5, and the second respondent, one of the brothers of the plaintiff alone entered caveat. Hence, the OP was converted into a testamentary suit. However, no written statement was filed by the defendant.

2. The matter went to trial as undefended suit. During trial, before the learned Master, the propounder of the Will was examined as P.W.1, who has produced Ext.P1 to Ext.P5. He also examined one of the attestors to the Will as P.W.2. The matter is now posted before this Court for final submissions of the counsel.

3. The counsel for the defendant would submit, in the meantime, a memo was filed to the effect that the defendant consents to grant of Letters of Administration. Even though it was not signed by the defendant, the fact remains that he has not chosen to contest the suit. Therefore, in the context of final adjudication, it may not have a significant bearing. This Court perused the papers and satisfied with the testimony of P.W.2.



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4. In fine, this Court holds that the Will dated 29.06.2006 executed by late S.Krishnaswamy is genuine. Accordingly, T.O.S. No.27 of 2015 is allowed by granting Letters of Administration with the Will annexed to by the plaintiff in respect of the estate bequeathed under the last Will and Testament of the late S.Krishnasamy, dated 29.06.2006. The plaintiff 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 plaintiff 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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Index : Yes / No

Speaking order / Non-speaking order
ds



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APPENDIX

WEB COPY I. Witnesses :

P.W.1	Mr.S.K.Rajagopal
P.W.2	Mr.K.Prabhakar Naidu

II. Exhibits :

Ext.P1	29.06.2006	Original Will of S.Krishnaswamy
Ext.P2	20.04.2007	Original Death Certificate of Mr.S.Krishnaswamy
Ext.P3		Photocopy of Aadhar Card of Mr.K.Prabhakar Naidu (attesting witness) along with the affidavit filed by him under Section 65B
Ext.P4		Signature of the attesting witness in Ext.P1 Will
Ext.P5	29.04.2014	Affidavit of Mr.K.Prabhakar Naidu(attesting witness)

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N.SESHASAYEE.J.,

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