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O.P.No.487 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **01.08.2023**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No. 487 of 2022

1. Dr.Sujatha Sriram

Represented by Power of Attorney Holder

Mr.V.Sabareesan

...

Petitioner

Vs.

1. Dr.Suresh Chari

2. Dr.Sriram Balachandran

.... 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 niece/beneficiary/legatee under the Will of the deceased Ms.K.Aravinda, to have effect throughout the State of Tamil Nadu.

For Petitioner : Mr.P.Suresh

For Respondents : Ms.T.Sreelekha

ORDER

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



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with the Will annexed, to the petitioner as the niece / legatee / beneficiary under the Will of the deceased Ms.K.Aravinda, having effect limited to the State of Tamil Nadu.

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

The petition mentioned property described under the schedule of the petition was jointly purchased by the testatrix by name K.Aravinda along with her father and brother by virtue of a sale deed dated 14.10.1981. The testatrix K.Aravinda remained unmarried and she died on 26.08.2020. During her lifetime she executed an unregistered Will dated 07.04.2011 by bequeathing the schedule mentioned property in favour of the petitioner who is her brother's daughter. The first respondent is the brother of the petitioner and the second respondent is the husband of the petitioner. The second respondent has been appointed as the executor of the Will. After the death of testatrix, the Will came into effect and hence the petitioner has filed this petition for grant of Letters of Administration.

3. The petitioner through her power of attorney by name V.Sabareesan was examined as P.W.1 and Exs.P1 to P9 were marked. One of the attestors of the Will by name Selvi was examined as P.W.2.



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4. The Will dated 07.04.11 is marked as Ex.P3. Ex.P4 is the copy of the sale deed dated 14.10.1981. Ex.P1 is the death certificate of deceased K.Aravinda. The consent affidavits of first and second respondent is marked as Exs.P5 and P6 respectively. Paper publication effected in one issue of Tamil daily “Makkal Kural” on 08.06.2023 and one issue of English daily “Trinity Mirror” dated 16.06.2023 attracted no objectors.

5. One of the attestors of the Will by name Selvi was examined as P.W.2 and she had stated in her evidence that she had attested the Will. She further stated that the testatrix K.Aravinda was in sound and disposing state of mind at the time when the Will was executed. She also identified the signature of K.Aravinda and stated that the testatrix had affixed her signature in her presence.

6. With the statement of P.W.2 and other documents in record, the 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.



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7. Hence, this Original Petition is allowed by granting Letters of Administration to the petitioner with the Will dated 07.04.2011 of K.Aravinda annexed thereto. 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.

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Internet :Yes/No

Speaking: Non speaking

Neutral:Yes/ No



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APPENDIX

Petitioner's witness:

P.W.1 – V.Sabareesan

P.W.2 – Selvi

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
P1	Computer generated death certificate of Mr.K.Aravinda
P2	Photocopy of the power of attorney dated 30.03.2022 executed by the petitioner in P.W.1's favour along with the still in force affidavit executed by P.W.1 (compared with the original)
P3	Original Will dated 07.04.2011 executed by Ms.K.Aravinda
P4	Photocopy of the sale deed dated 14.10.1981 registered as Doc.No.78 of 1982 at SRO, Periyamed (Compared with the original)
P5	Consent affidavit of the first respondent
P6	Consent affidavit of second respondent
P7	Affidavit of assets showing the net value of the estate as Rs.74,80,000/-
P8	Copy of paper publication effected in one issue of Tamil daily "Makkal Kural" dated 08.06.2023
P9	Copy of paper publication effected in one issue of English daily "Trinity Mirror" dated 16.06.2023.
P10	Affidavit of A.Selvi

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