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O.P.No.268 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2023

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No. 268 of 2022

Shirley Sylvia

...

Petitioner

Vs.

1. D.Greeta Christiana Vasanthakumari

2. D.Preethi

3. D.Abigail Sunithi

... Respondents

Original Petition is filed under Section 232 & 276 of the Indian Succession Act, 1925 read with Order XXV, Rule 5 of Original Side Rules seeking for grant of Letters of Administration with the Will dated 08.08.2005 registered as Document No.47 of 2005, Book No.III, registered in the Office of the Sub-Registrar, Villivakkam annexed of the property and credits of deceased to the petitioner as sister's daughter / beneficiary under the Will of the said deceased, to have effect limited to the State of Tamil Nadu.

For Petitioner : Mr.V.Manisekaran

For Respondents : Mr.D.Gnanasekaran



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ORDER

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This Original Petition has been filed under Section 232 & 276 of the Indian Succession Act, 1925 read with Order XXV, Rule 5 of Original Side Rules seeking for grant of Letters of Administration with the Will dated 08.08.2005 registered as Document No.47 of 2005, Book No.III, registered in the Office of the Sub-Registrar, Villivakkam annexed of the property and credits of deceased to the petitioner as sister's daughter / beneficiary under the Will of the said deceased, to have effect limited to the State of Tamil Nadu.

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

The petition mentioned property belonged to one B.David Thiyagarajan. The first respondent is the wife and the second and third respondents are the children of the said B.David Thiyagarajan. B.David Thiyagarajan died on 31.12.2005 leaving behind his wife and children. During his lifetime, he had executed a registered Will dated 08.08.2005 by bequeathing the petition mentioned property in favour of his sister's daughter Shirley Sylvia who is the petitioner herein. After the demise of B.David Thiyagarajan, the Will came into force and the petitioner had filed this petition for seeking Letters of Administration.



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3. The petitioner examined herself as P.W.1 and Ex.P1 to P11 were marked. One of the attesting witness by name D.David Dhanaraj was examined as P.W.2 and Ex.P12 was marked.

4. The sale deed in favour of B.David Thiyagarajan is available as Ex.P1 and the registered Will dated 08.08.2005 is marked as Ex.P2. From the death certificate Ex.P3 it is seen that the B.David Thiyagarajan died on 31.12.2005. The legal heirship certificate of B.David Thiyagarajan which is marked as Ex.P4 would show that the respondents are the only legal heirs of B.David Thiyagarajan. The consent affidavits of respondents 1 to 3 are available as Ex.P9 to P11.

5. Paper publication effected in one issue of Tamil daily “Makkal Kural” on 28.04.2023 and in one issue of English daily “Trinity Mirror” dated 05.05.2023 did not attract any objectors.

6. One of the attesting witnesses by name D.David Dhanaraj has been examined as P.W.2 and he had stated in his evidence that he was present along with other attesting witness by name J.Moorthy at the time when the Will was executed by the testator and he had stated that the testator was in sound and



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disposing state of mind at the time of execution of the Will. He further stated that he had subscribed his signature along with J.Moorthy in the Will in the presence of the testator.

7. The evidences of P.W.1 and P.W.2 and the documents available on record would show that the Will has been executed as per the terms of Section 63(c) of the Indian Succession Act and the same has been proved in terms of Section 68 of the Indian Evidence Act. The respondents have given their consent for grant of Letters of Administration in favour of the petitioner. Since the petitioner had proved the genuineness of the Will, the relief sought shall be granted.

8. Accordingly, this Original Petition is allowed by granting Letters of Administration to the petitioner with the Will dated 08.08.2005 of B.David Thiagarajan 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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APPENDIX

Petitioner's witness:

P.W.1 – Mrs. Shirley Sylvia

P.W.2 – Mr.D.David Dhanaraj

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
P1	Photocopy of the sale deed dated 18.08.1995 in favour of B.David Thiagarajan
P2	Original Will dated 08.08.2005 executed by B.David Thiagarajan
P3	Computer generated death certificate of B.David Thiagarajan
P4	Photocopy of the legal heirship certificate of B.David Thiagarajan
P5	Photocopy of petitioner's Aadhaar card
P6	Copy of paper publication effected in one issue of Tamil daily "Makkal Kural" on 28.04.2023
P7	Copy of paper publication effected in one issue of English daily "Trinity Mirror" on 05.05.2023
P8	Affidavit of assets showing the net value of the estate as Rs.60,00,000/-
P9	Consent affidavit given by the first respondent
P10	Consent affidavit given by the second respondent
P11	Consent affidavit given by the third respondent
P12	Affidavit of P.W.2

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