



O.P.No.257 of 2023

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N.SATHISH KUMAR.J.,

This original petition has been filed under Sections 232 & 272 of Indian Succession Act and under Order XXV & Rule 5 of the Madras High Court Original Side Rules seeking to grant Letters of Administration of the Registered Will said to have been executed by late S.V.Santhakumari dated 27.01.2017 bequeathing an extent of 406.34 square feet of undivided share together with plinth area of about 915 square feet in II Floor with a car parking. The said property is situated at Old Door No.D-2, Ramasamy Salai, Ponnambalam Salai, 45th Street, 8th Sector, K.K.Nagar, Chennai 600 078.

2. Though the petitioner sought to examine himself and one of the attesting witnesses to the Will in question, on a careful scrutiny of the available materials including the averments made in the petition, this court is of the view that no evidence is required in this proceedings.

3. This court has heard the learned counsel for the petitioner and perused the records carefully.

4. It is seen from the records that after having executed the Will in question and registered the same in January, 2017, the testatrix herself had

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executed a settlement deed on 18.07.2017 in favour of the petitioner. The very same property which was covered under the registered Will in question is the property transferred in favour of the petitioner under the registered settlement deed dated 18.07.2017. Since the property which had been bequeathed by the testatrix under the Will in favour of the petitioner was subsequently transferred by the testatrix herself by way of settlement in favour of the petitioner and the estate under the Will was not available for disposal by the testatrix at the time of her death in view of the transfer of the same by way of settlement in favour of the petitioner, the Will in question cannot take effect by reason of ademption. If at all the petitioner has any right or claim over the land and flat referred to above, admittedly, as settlee of the property, he can claim such right against the builder.

5. For the foregoing discussions, no letters of administration as prayed for can be granted to the petitioner.

In the result, the original petition is dismissed, however, with the above observations.

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