



O.P.No.402 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **02.01.2023**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

O.P.No.402 of 2022

1. Mr.V.Mahesh Mohan,
Son of Late. V.Viswanathan
New No.5, Old E 41, 17th Cross Street,
Besant Nagar, Chennai-600 090.
2. Mrs.S.Srividya W/o.Mr.Sivaramakrishnan,
Daughter of Late V.Viswanathan,
New No.5, Old E 41, 7th Cross Street,
Besant Nagar, Chennai-600 090.

... Petitioners

PRAYER: Original Petition filed for Letters of Administration under Sections 232 and 276 of Indian Succession Act 1925 under Order XXV Rule 5 of Original Side Rules, prays that the Letters of Administration with the Will annexed of the properties and credit of the deceased be granted to Petitioners as the Son and daughter/beneficiary under the Last Will and Testament of said deceased having effect throughout the State of Tamilnadu and thus render justice.

For Petitioners : Mr.G.Poonkunran

ORDER



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The petitioners seek the grant of letters of administration in respect of the last Will and testament of their late father, Mr.V.Viswanathan.

2. The petitioners state that their father executed a Will on 26.10.1997 at Chennai. The said Will was executed in the presence of two witnesses, whose names appear at the foot of the Will. The petitioners state that the testator died on 21.04.2020 at Southern Railway Headquarters Hospital, Ayanavaram, Chennai. The petitioners further assert that they are only surviving class I legal heirs of the testator because his mother predeceased him. His wife, Mrs.V.Sulochana, mother of the petitioners, also died on 25.01.2022. Since the testator bequeathed the assets described in the schedules to this petition to the petitioners, the present petition is filed by them.

3. In order to establish entitlement to the relief claimed, the petitioners adduced evidence. The first petitioner was examined as PW1. In course of the examination-in-chief of PW1, the 12 documents listed at the foot of this order were exhibited as Exs.P1 to P12. The Will was exhibited as



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Ex.P1. This document discloses that the Will was executed on 26.10.1997.

It bears the signatures of two attesting witnesses, namely, S.Sita and K.Arunachalam. The death certificate of the testator discloses that he died on 21.04.2020. The legal heirship certificate in respect of the late Mr.V.Viswanathan discloses the names of the two petitioners and the mother of the petitioners, Mrs.V.Sulochana, as the then surviving class I legal heirs of Mr.V.Viswanathan. The death certificate of Mrs.V.Sulochana discloses that she died on 25.01.2022. Documents relating to the assets bequeathed under the Will were exhibited as Exs.P6 to P9. Paper publications were made in an English daily and Tamil daily and exhibited as Exs.P10 and P11. One of the attesting witnesses, namely, Mrs.S.Sita, was examined as PW2. She deposed that the testator was her neighbour and that she was acquainted with him. She further deposed that she was present along with the other attesting witness and saw the testator sign the Will. She also deposed that the testator was in a sound and disposing state of mind at the time of execution of the Will.



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4. Based on the assertions in the petition and the evidence adduced in support thereof, the petitioners are entitled to the relief claimed.

5. Accordingly, O.P.No.402 of 2022 is allowed by granting letters of administration with the Will annexed to the petitioners in respect of the estate bequeathed under the last Will and testament of the late V.Viswanathan dated 26.10.1997. The petitioners are 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 petitioners are 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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Petitioner's witness:

P.W.1 – Mr.V.Mahesh Mohan

P.W.2 – Mrs.S.Sita



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Documents exhibited by the petitioners:

<i>Exhibit No.</i>	<i>Description</i>
Ex.P1	The original Will dated 26.10.1997 executed by Mr.V.Viswanathan.
Ex.P2	The computer generated death certificate of Mr.V.Viswanathan.
Ex.P3	The computer generated Legal Heirship Certificate of Mr.V.Viswanathan.
Ex.P4	The computer generated death certificate of Mrs.V.Sulochana.
Ex.P5	The photocopy of the Aadhaar Card of Mr.V.Viswanathan (Compared with the original).
Ex.P6	The photocopy of the Sale Deed dated 17.04.1986 (Compared with the original).
Ex.P7	The computer generated encumbrance certificate dated 11.03.2021 for the period 01.01.1986 to 08.03.2021 in respect of the petition mentioned property.
Ex.P8	The computer generated extract from the town survey land register in respect of the petition mentioned property.
Ex.P9	The affidavit of assets showing the net value of the estate as Rs.4,75,00,000/-.
Ex.P10	The copy of paper publication effected in one issue of Tamil daily “Maalai Malar” dated 23.10.2022.
Ex.P11	The copy of paper publication effected in one issue of English daily “Trinity Mirror” dated 03.11.2022.
Ex.P12	Affidavit of attesting witness Mrs.S.Sita

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