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O.P.No.543 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2023

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

O.P.No.543 of 2022

1. Shareen Shajahan,
Wife of Shajahan Idayathulla

2. R.Saleem
Son of late Mr.Rafi

3. Zeenath Rafi
Wife of late Mr.Rafi

... Petitioners

PRAYER: Original Petition under Sections 217 & 278 of Indian Succession Act 1925, r/w. Order XXV Rule 5 of Original Side Rules, prays that the Letters of Administration of the Schedule Properties of the deceased to have effect throughout the State of Tamil Nadu may be granted to the petitioners 1 & 2.

For Petitioners : Ms.P.Meghana Nair

ORDER

The petitioners seek the grant of letters of administration to the first and second petitioners in respect of the estate of the father of the first and second petitioners and the husband of the third petitioner.



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2. The petitioners assert that the father of the first and second petitioners and the husband of the third petitioner died intestate on 08.11.2019 and that he ordinarily resided at the address specified in paragraph 2 of the petition, which is within the jurisdiction of this Court. The petitioners further assert that the deceased married the third petitioner on 23.12.1974. They did not have children. Thereafter, the deceased married Naseema Banu on 27.10.1977 and the first and second petitioners are the children of the late Mr.Rafi and the late Naseema Banu. Naseema Banu passed away on 30.01.2007. Therefore, it is stated that the three petitioners are the only surviving legal heirs of the deceased. The petitioners state that in spite of a diligent search, no Will was found. Learned counsel for the petitioners state that the first petitioner is entitled to $1/3^{\text{rd}}$ of the estate and the second petitioner is entitled to $2/3^{\text{rd}}$ of the estate, as per Islamic law, after taking into account the release of the $1/8^{\text{th}}$ share of the petitioner in favour of the first and second petitioners.

3. In order to establish entitlement to the relief claimed, the petitioners adduced evidence by examining the second petitioner as PW1. In



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course of his examination-in-chief, the 21 documents listed at the foot of this order were exhibited as Exs.P1 to P21. The death certificate of the late M.Rafi (Ex.P4) discloses that he died on 08.11.2019. The death certificate also discloses his address, which is within the jurisdiction of this Court. The family card of Mr.Rafi (Ex.P5) discloses the names of the second petitioner and Mrs.Zeenath Rafi, the third petitioner. The death certificate of Mrs.Naseema Banu (Ex.P3) discloses that she died on 30.01.2007. The marriage certificates relating to the marriage of Mr.Rafi and the third petitioner and the marriage of Mr.Rafi and Mrs.Naseema Banu are on record (Exs.P1 and P2). The PAN of the first petitioner discloses the name of her father as Mr.Rafi. As evidence of the title of the deceased over the relevant assets, Exs.P7 to P18 have been placed on record. Paper publications were effected (Exs.P20 and P21)

4. Based on the assertions in the petition and evidence adduced by the petitioners, the petitioners are entitled to the relief claimed. Accordingly, O.P.No.543 of 2022 is allowed by granting letters of administration to the first and second petitioners in respect of the assets described in the schedule to the petition. The petitioners are directed to execute a security bond for a



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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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Index : Yes / No

Petitioner's witness:

P.W.1 – Mr.Mr.R.Saleem

Documents exhibited by the petitioners:

<i>Exhibit No.</i>	<i>Description</i>
Ex.P1	The photocopy of the marriage certificate of the deceased Mr.Rafi with the 3 rd petitioner (Compared with the original).
Ex.P2	The photocopy of the marriage certificate of the deceased Mr.Rafi with Mrs.Naseema Banu (Compared with the original)
Ex.P3	The computer generated death certificate of Mrs.Naseema Rafi.
Ex.P4	The computer generated death certificate of Mr.M.Rafi.
Ex.P5	The photocopy of the family card of Rafi (Compared with the original)
Ex.P6	The photocopy of the Aadhaar card of the 1 st petitioner (Compared with the original)
Ex.P7	The photocopy of the registered sale deed dated 11.03.1987



<i>Exhibit No.</i>	<i>Description</i>
	executed in favour of Mr.M.Rafi (Compared with the original).
Ex.P8	The photocopy of the registered sale deed dated 26.10.1995 executed in favour of Mr.M.Rafi (Compared with the original).
Ex.P9	The photocopy of the registered sale deed dated 27.01.2006 executed in favour of Mr.M.Rafi (Compared with the original).
Ex.P10	The photocopy of the LIC policy bond bearing policy No.711586346 standing in the name of Mr.M.Rafi (Compared with the original).
Ex.P11	The photocopy of the LIC policy bond bearing policy No.711586347 standing in the name of Mr.M.Rafi (Compared with the original)..
Ex.P12	The photocopy of the LIC policy bond bearing policy No.711586356 standing in the name of Mr.M.Rafi (Compared with the original).
Ex.P13	The photocopy of the LIC policy bond bearing policy No.71389094 standing in the name of Mr.M.Rafi (Compared with the original).
Ex.P14	The photocopy of the share certificate of Hi cure Healthcare Private Limited bearing certificate No.14 standing in the name of Mr.M.Rafi (Compared with the original).
Ex.P15	The photocopy of the share certificate of Hi cure Healthcare Private Limited bearing certificate No.15 standing in the name of Mr.M.Rafi (Compared with the original).
Es.P16	The photocopy of the share certificate of Hi cure Healthcare Private Limited bearing certificate No.24 standing in the name of Mr.M.Rafi (Compared with the original).
Ex.17	The photocopy of the front page of Karur Vysya Bank passbook bearing account No.1155172000002134 standing in the name of Mr.M.Rafi (Compared with the original).
Ex.P18	The photocopy of the registration certificate of Maruthi Suzuki Alto 800 Car bearing registration No.TN 09 CC 8404



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<i>Exhibit No.</i>	<i>Description</i>
	(Compared with the original).
Ex.P19	The affidavit of assets showing the net value of the estate as Rs.1,62,67,756.34.
Ex.P20	The copy of paper publication effected in one issue of Tamil daily “Maalai Tamizhagam” dated 07.12.2022.
Ex.P21	The copy of paper publication effected in one issue of English daily “Trinity Mirror” dated 14.12.2022.

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