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O.P.No.249 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2023

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

O.P.No.249 of 2022

R.Kamatchi Sundaramoorthy,
Son of K.Ramasamy,
Residing at No.50A, 1st Street,
Elango Nagar, Padi,
Chennai-600 050.

... Petitioner

VS

1. K.Ramasamy
Son of Kamatchi Sundaram,
Residing at No.50A, 1st Street,
Elango Nagar, Padi,
Chennai-600 050.
2. R.Arunasalam,
Son of K.Ramasamy,
Residing at No.40/1, Rajavelu Street,
Perambur, Chennai-600 011.
3. M.Muthulakshmi Muthusamy,
Wife of Muthusamy,
Residing at C-6, Nathans Complex,
No.69, East Coast Road,
Thiruvanmiyur, Chennai 600 041.

... Respondents



O.P.No.249 of 2022

PRAYER: Original Petition filed under Sections 232 and 276 of Indian Succession Act XXXIX of 1925 and Order XXV, Rule 5 of O.S. Rules 1956, prays that the Letters of Administration with the Will annexed of the properties and credit of the deceased be granted to petitioner as the son, sole beneficiary under the Will executed by the deceased Ammamuthu Ammal having effect limited to the State of Tamil Nadu and pass such further or other orders as this Hon'ble Court may deem fit and proper and thus render justice.

For Petitioner : M/s.Ma.P.Thangavel
Ms.B.Devagi Thangavel
Mr.Lokesh, Mr.M.N.Mohan Raj

ORDER

The petitioner seeks issuance of letters of administration in respect of the assets bequeathed under the last Will and testament of his mother, R.Ammamuthu Ammal.

2. The petitioner asserts that his mother executed her last Will and testament on 06.09.1999. The said Will was registered as Document No.52 of 1999 in the office of the Sub Registrar, Villivakkam, Chennai. No executor was appointed under the Will. As the beneficiary under the Will, the petition is filed by R.Kamatchi Sundaramoorthy.

2/7



O.P.No.249 of 2022

WEB COPY

3. The petitioner states that his mother was survived by her husband, who is the first respondent herein and her children, namely, the second and third respondents herein.

4. Since the attesting witnesses were not traceable, it is stated that the respondents herein were examined as witnesses.

5. In order to prove the Will, evidence was adduced by examining the petitioner 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 original registered Will (Ex.P2) discloses that it was attested by two witnesses. The names of the said witnesses are unclear and the addresses are not specified. However, the Will was registered as Document No.52 of 1999 before the Sub Registrar Office, Villivakkam, Chennai. On perusal of the Will, the bequest is in favour of the petitioner herein. The death certificate of the testatrix (Ex.P3) discloses that she died on 06.10.2017. The legal heirship certificate in respect of the testatrix (Ex.P5) discloses the names of



O.P.No.249 of 2022

the petitioner and the three respondents herein as her class I legal heirs. All the respondents have provided consent affidavits (Exs.P8 to P10).

6. In lieu of examining the untraceable attesting witnesses, the three respondents were examined as RW1 to RW3.

7. In their proof affidavits, they stated that R.Ammamuthu Ammal executed a registered Will on 06.09.1999 and that they are consenting to the issuance of letters of administration with the said Will annexed thereto.

8. Based on the evidence adduced by the petitioner, the Will stands duly proved. Consequently, the petitioner is entitled to the relief claimed.

9. For reasons stated above, O.P.No.249 of 2022 is allowed by granting letters of administration to the petitioner with the Will annexed in respect of the estate bequeathed under the last Will and testament dated 06.09.1999 of the testatrix, R.Ammamuthu Ammal. The petitioner is directed to execute a security bond for a sum of Rs.25,000/- (Rupees



O.P.No.249 of 2022

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.

09.02.2023

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Index : Yes / No

Petitioner's witness:

P.W.1 – Mr.R.Kamatchi Sundaramoorthy

Respondent's witnesses:

R.W.1 – Mr.K.Ramasamy

R.W.2 – Mr.Arunasalam

R.W.3 – Mrs.M.Muthulakshmi

Documents exhibited by the petitioner:

<i>Exhibit No.</i>	<i>Description</i>
Ex.P1	The original registered sale deed dated 26.03.1987.
Ex.P2	The original registered Will dated 06.09.1999 executed by R.Ammamuthu Ammal.



O.P.No.249 of 2022

<i>Exhibit No.</i>	<i>Description</i>
Ex.P3	The computer generated death certificate of R.Ammamuthu.
Ex.P4	The original Town Survey Field Register dated 19.11.2013.
Ex.P5	The computer generated Legal Heirship certificate of R.Ammamuthu.
Ex.P6	The photocopy of my Aadhaar card (Compared with the original).
Ex.P7	The affidavit of assets showing the net value of the estate as Rs.33,00,000/-.
Ex.P8	The consent affidavit given by the 1 st respondent.
Ex.P9	The consent affidavit given by the 2 nd respondent.
Ex.P10	The consent affidavit given by the 3 rd respondent.
Ex.P11	The copy of paper publication effected in one issue of Tamil daily “Makkal Kural” dated 15.10.2022.
Ex.P12	The copy of paper publication effected in one issue of English daily “Trinity Mirror” dated 22.10.2022.

09.02.2023

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WEB COPY



O.P.No.249 of 2022

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O.P.No.249 of 2022

09.02.2023