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O.P.No.17 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **07.02.2023**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

O.P.No.17 of 2022

1.G.Parimala
2.G.Nirmal Kumar
Petitioners

...

-VS-

1.G.Uma Shanthi
2.G.Sumathy

... Respondents

PRAYER: Original Petition filed under Sections 232, 255 and 276 of the Indian Succession Act, 1925, read with Order XXV Rule 5 of High Court O.S.Rules, for grant of Letters of Administration with the Will annexed may be granted to the Petitioner 1 and 2 as the wife and son respectively under the Will of the said Mr.C.Gowrian deceased having effect limited to the State of Tamil Nadu and limited to the assets mentioned in the affidavit of assets.

For Petitioners : Mr.M.Stalin

ORDER



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The petitioners seek the grant of letters of administration in respect of the estate bequeathed under the last Will and testament of Mr.C.Gowrian.

2. The petitioners assert that Mr.C.Gowrian was the husband of the first petitioner and the father of the second petitioner and the respondents. They state that he ordinarily resided at the address specified in paragraph 3 of the petition. During his lifetime, it is stated that he executed his last Will and testament on 28.04.1995 at Chennai and the Will was registered as Document No.81 of 1995 in the Office of the Sub Registrar, Sembium in the presence of two attesting witnesses, namely, A.Sampath and N.Chitti Babu.

3. Being the beneficiaries under the Will, they have presented this petition by arraying the two daughters of the testator, who are the other class-I legal heirs, as respondents.

4. In order to prove the Will and establish entitlement to the relief claimed, the petitioners adduced evidence by examining the first petitioner as P.W.1. In course of the examination in chief of P.W.1, the 10 documents



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listed at the foot of this order were exhibited as Exs.P1 to P10. The original registered Will (Ex.P1) discloses that it was executed on 28.04.1995. The said document has been attested by Mr.A.Sampath and Mr.N.Chitti Babu. The Will has been registered as Document No.81 of 1995. Under the Will, the property described in the schedule to the Will has been bequeathed in favour of the first petitioner by way of a life estate and absolutely in favour of the second petitioner. The death certificate of Mr.C.Gowrian (Ex.P2) discloses that he died on 21.04.2016. The legal heirship certificate of Mr.C.Gowrian (Ex.P3) discloses the names of the parties hereto as the four class-I legal heirs of the testator. The death certificate of one of the attesting witnesses, Mr.N.Chitti Babu, is on record as Ex.P4. Both the respondents have provided consent affidavits (Exs.P5 and P6).

5. By asserting that the other attesting witness, Mr.A.Sampath, could not be contacted in spite of best efforts, the petitioners obtained leave to examine a third party as P.W.2. Pursuant thereto, Mr.S.Janarthanan was examined as P.W.2. He deposed that Mr.C.Gowrian was his father-in-law and that he is the husband of the first respondent. He identified the



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signatures found in the Will as that of his father-in-law.

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6. Based on the assertions in the petition and the evidence adduced in support thereof, the Will stands duly proved. Consequently, the petitioners are entitled to the relief claimed.

7. For reasons set out above, O.P.No.17 of 2022 is allowed by directing that letters of administration be issued to the petitioners with the Will dated 28.04.1995 of Mr.C.Gowrian annexed thereto. Such letters of administration shall have effect throughout the state of Tamil Nadu. The petitioners shall 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 shall provide an inventory of assets and statement of accounts within a period of *six months* and *one year*, respectively.

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rna

Index : Yes / No

Internet : Yes / No



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Petitioner's witness:

P.W.1 - Mrs.G.Parimala

P.W.2 - Mr.S.Janarthanan

Documents exhibited by the petitioners:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Original Will dated 28.04.1995 executed by Mr.C.Gowrian.
Ex.P2	Computer generated death certificate of Mr.C.Gowrian.
Ex.P3	Computer generated Legal Heirship certificate of Mr.C.Gowrian.
Ex.P4	Computer generated death certificate of N.Chitti Babu, one of the attesting witnesses.
Ex.P5	Consent affidavit given by the first respondent.
Ex.P6	Consent affidavit given by the second respondent.
Ex.P7	Affidavit of assets showing the net value of the estate as Rs.40,00,000/-.
Ex.P8	Copy of the letter dated 09.08.2021 sent by me to the other attesting witness Mr.A.Sambanthan along with the returned cover.
Ex.P9	Copy of paper publication effected in one issue of English daily "Trinity Mirror" dated 29.09.2022.
Ex.P10	Copy of paper publication effected in one issue of Tamil daily "Makkal Kural" dated 05.10.2022.
Ex.P11	Affidavit of P.W.2.



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