



O.P.No.413 of 2022

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N.SATHISH KUMAR, J.

This Petition has been filed under Sections 232 and 276 of the Indian Succession Act read with Order XXV Rule 5 of the Original Side Rules, seeking to grant of Letters of Administration.

2. This petition has been filed for grant of Letters Administration in respect of the Will of one K.Balasubramanian (hereinafter will be referred to as “the Testator”) executed on 15.03.2007. The petitioner is the wife of J.Munusmy, who was the nephew of the testator and originally the beneficiary under the Will.

3. It is the case of the petitioner that the respondent is the wife of the testator. The marriage between testator and the respondent got dissolved by a decree of divorce as early as on 07.03.2007 by order in FCOP No.562 of 2007 on the file of the I Additional Family Court, Chennai. The testator and the respondent had no issues from their marriage. The testator during his life time had executed a registered Will on 15.03.2007 in favour of the petitioner's husband who is son of Adilakshmi and none other than the

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nephew of the testator. The testator died on 06.01.2021 leaving behind his last Will and Testament dated 15.03.2007. The husband of the petitioner died on 23.11.2021 leaving behind his wife, the petitioner, as his only legal heir. Hence, this petition seeking to grant letters of administration.

4. The petitioner hereby undertakes to duly administer the specified property and credits of the deceased in any way concerning his Will by paying the debts first and then the legacies therein bequeathed so far as the assets will extend and to make full and true inventory thereof and exhibits the same in this Court within six months from the date of the grant of a Letters of Administration with the Last Will annexed to the petition and also to render to this Court a true account of the said property within one year from the said date.

5. The petitioner examined herself as P.W.1 and the attesting witnesses Mrs.V.Maharani and Mrs.D.Vimala have been examined as P.W.2 and P.W.3. Ex.P.1 to Ex.P.15 were marked.

6. Notice sent through court could not be served for want of correct address and it is seen from the record that the building where the respondent was residing had been demolished. Notice sent to the respondent privately



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got returned with an endorsement “No such person in this Address”. Hence, on a petition filed by the petitioner substituted service by publication was ordered on 18.04.2023. Accordingly publications in one issue, both in vernacular and English language were effected, however, there was no representation on behalf of the respondent either in person or through a counsel.

7. P.W.1 in her evidence had narrated the averments made in the petition stating that she has filed this petition stepping into the shoes of her husband, who was originally the beneficiary under the Will for grant of Letters of Administration in her favour in respect of the Last Will and Testament executed by the deceased K.Balasubramanian on 15.03.2007 in favour of her husband. Ex.P.1 is the Original Will. Ex.P.2 is the decree of divorce dated 07.03.2007 made in F.C.O.P.No.562 of 2007 on the file of the Additional Family Court, Chennai dissolving the marriage solemnized between the testator and the respondent. Ex.P.3 and Ex.P.4 are the certified copies of the order and final decree respectively dated 05.12.2017 made in I.A.No.4419 of 2013 in O.S.No.5861 of 1994 on the file of the City Civil Court, Chennai whereby the suit property was allotted to the share of the



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testator. Ex.P.5 is the computer generated death certificate of the testator.

Ex.P.6 is the photocopy of Aadhaar card of the testator. Ex.P.7 is the photocopy of Aadhaar card of the husband of the petitioner. Ex.P.8 is the computer generated death certificate of the husband of the petitioner. Ex.P.9 is the computer generated legal heir certificate of the husband of the petitioner. Ex.P.10 is the photocopy of Aadhaar of the petitioner. Ex.P.11 is the affidavit of assets showing the net value of estate as Rs.52,01,000/-. Ex.P.12 is the paper publication effected in one issue of Tamil Daily “Makkal Kural” dated 19.07.2023. Ex.P.13 is the paper publication effected in one issue of English Daily “Trinity Mirror” dated 27.07.2023.

8. One Mrs.V.Maharani, who was one of the attesting witnesses to the Will, was examined as P.W.2. In her evidence, she had stated that the testator was in sound state of mind while executing the Will and he had seen the testator signing the Will and also the other attesting witness subscribing her signature in the Will (Ex.P1). She has also stated that the testator had seen the attesting witnesses subscribing their signatures in the Will. Mrs.D.Vimala, the other attesting witness who has been examined as P.W.3 has also stated in her evidence that the testator was of sound mind at the



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time of execution of Will and she had seen the testator signing the Will and thereafter, the other attesting witness subscribed the Will and then he attested the Will. She has further stated that the testator had seen both she and P.W.2 subscribing the Will as attesting witnesses. Ex.P.1 Will is a registered one. The evidence of attesting witnesses not only prove the execution but also attestation of the Will (Ex.P.1) and there is no other material to suspect the Will.

9. Considering the oral and documentary evidence, this court is of the view that the petitioner has proved the execution and attestation of the Will. The husband of the petitioner who was originally the beneficiary under the Will is no more and as such, the petitioner being the wife and the only legal heir of the beneficiary under the Will is entitled for the issuance of Letters of Administration in her favour.

Accordingly, this petition is allowed. Issue Letters of Administration in favour of the petitioner. The petitioner is directed to duly administer the properties and credits of the deceased more fully described in the schedule. The petitioner is also directed to execute a security bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) in favour of the Assistant



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Registrar (O.S.II), High Court, Madras. The petitioner is further directed to
render true and correct accounts once in a year.

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