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O.P.No.538 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **21.07.2023**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No.538 of 2022

1.J.S.Jayabharathy
2.S.Bennet Samuel
3.S.Dellin Agnes
(petitioners 2 and 3 are represented by mother and
Natural Guardian J.S.Jayabharathy and the first
petitioner was appointed as Legal Guardian for
minors 2nd and 3rd petitioners vide an order dated
09.11.2021 in O.P.No.556 of 2021)

... Petitioners

Vs.

1.R.Sagunthala
2.Christibai
3.Lillipushpam
4.Sheeba Vasantha Malar
5.Stella Joyce
6.Jayakumar

.... Respondents

PRAYER : Original Petition is filed under Section 232 & 276 of the Indian Succession Act, 1925 r/w. Order XXV, Rule 5 of Original Side Rules seeking for grant of Letters of Administration with the Will annexed may be granted to the 1st petitioner as daughter in law and on behalf of the minors as their Court Guardian for the use and benefit of them until they attain the



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age of majority legatees under the Will of the deceased having effect limited
to the State of Tamil Nadu.

For Petitioners : Mr.N.V.N.Margandeyan

For Respondents : Mr.S.Suresh Kumar for R1, R4 & R5

No appearance for R2, R3 & R6

ORDER

This Original Petition has been filed under Section 232 & 276 of the Indian Succession Act, 1925 r/s Order XXV, Rule-5 of Original Side Rules seeking for grant of Letters of Administration with the Will annexed of the properties and credits of deceased to the first petitioner.

2. The averments in the petition are as follows:-

The petition mentioned property is originally belonged to one Samuel Robert Nadar. The said Samuel Robert Nadar died on 04.05.1996. During the life time of Samuel Robert Nadar, he executed a Will by declaring the properties in favour of his two sons viz., Solomon Raja and Jayakumar. One of the beneficiaries by name Solomon Raja died on 10.06.2021. The first petitioner is the wife of the deceased Solomon Raja and the second and the



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third petitioners are his children. The first respondent is the wife of the testator Samuel Robert Nadar. The respondents 2 to 5 are the daughters of the testator and the 6th respondent is the another son of the testator. The petitioners have filed this Original Petition seeking letters of administration in favour of the first petitioner.

3. The first petitioner examined herself as P.W.1 and one G.Selwyn has been examined as P.W.2 and marked Exhibits P1 to P12 which are tabulated hereunder:

<i>Exhibits</i>	<i>Documents</i>
P1	Original registered Will dated 01.12.1995 executed by Samuel Robert Nadar.
P2	Photocopy of the death certificate of Y.Robert.
P3	Photocopy of the legal heir certificate of Robert.
P4	Consent affidavit of the 1st respondent.
P5	Consent affidavit of the 2nd respondent.
P6	Consent affidavit of the 3rd respondent.
P7	Consent affidavit of the 4th respondent.
P8	Consent affidavit of the 5th respondent.
P9	Consent affidavit of the 6th respondent.
P10	Paper publication in one issue of "Makkal Kural" dated 20.01.2023.
P11	Paper publication in one issue of "Trinity Mirror" dated 27.01.2023.
P12	Downloaded copy of the first petitioner's Aadhar Card along with certificate under Section 65B of the Evidence Act.



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4. The original Will dated 01.12.1995 is marked as Ex.P1. Ex.P2 is the death certificate of Samuel Robert Nadar. Ex.P3 is the legal heirship certificate. All the interested parties have given their consent affidavits which are marked as Exhibits P4 to P9. The paper publication issued in one issue of "Makkal Kural" on 20.01.2023 and in one issue of "Trinity Mirror" on 27.01.2023 did not attract any objectors and the same has been marked as Exhibits P10 & P11.

5. Since both the attestors of the Will died, a person who is conversant with the signatures of the attestors and testator is examined as P.W.2. He stated in his evidence that he is conversant with the signatures of the testator and the attestors.

6. With the statement of P.W.2 and other documents in record, the petitioners have proved that the Will has been executed in terms of Section 63(c) of the Indian Succession Act and its genuineness is proved in accordance with Section 69 of the Indian Evidence Act.

7. Hence, this Original Petition is allowed by granting Letters of Administration to the first petitioner as daughter-in-law and on behalf of the



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minors as their court guardian with the Will dated 01.12.1995 of Samuel Robert Nadar annexed thereto. Such Letters of Administration shall have effect throughout the State of Tamilnadu. The first petitioner is 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 first petitioner is 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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Internet :Yes/No

Speaking: Non speaking

Neutral:Yes/ No



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APPENDIX

Petitioners' witness:

P.W.1 – Mrs.J.S.Jaya Bharathy

P.W.2 – Mr.G.Selwyn

Documents marked:

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