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O.P.No.636 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **21.08.2023**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No. 636 of 2022

J.Shanthi

...

Petitioner

Vs.

A.Shanmugam

....

Respondent

Original Petition is filed under Section 232 & 276 of the Indian Succession Act, 1925 (Act XXXIX of 1925) read with Order XXV, Rule-5 of Original Side Rules, 1956 to grant Letters of Administration with the Will annexed, to the petitioner as the Legatee under the Will of the deceased, to have effect throughout the whole of Union of India.

For Petitioner : Mr.R.Ramakrishnan

ORDER

This Original Petition has been filed under Section 232 & 276 of the Indian Succession Act, 1925 (Act XXXIX of 1925) and under Order XXV, Rule-5 of Original Side Rules seeking for grant of Letters of Administration with the Will annexed, to the petitioner as the Legatee and under the Will of the deceased, to have effect throughout the State of Tamil Nadu.

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



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The petition mentioned properties were originally belonged to one K.Lakshmi and her husband M.L.Krishnan by virtue of three registered sale deeds dated 11.07.1975, 27.10.1976 and 12.12.2019. The said K.Lakshmi and M.L.Krishnan have no issues of their own. The husband of Lakshmi predeceased her on 29.09.1996 leaving behind Lakshmi alone as his legal heir and hence K.Lakshmi became entitled to inherit his property as his sole legal heir. The parents of K.Lakshmi also predeceased her on 03.05.1963 and 24.01.1989 respectively. The said K.Lakshmi died on 25.11.2020. During her lifetime, K.Lakshmi executed an unregistered Will dated 21.11.2020 by bequeathing the petition mentioned properties in favour of her sister J.Shanthi who is the petitioner herein. The respondent is the brother of the deceased Lakshmi and apart from the respondent, the deceased had two more sisters by name Kasthuri and Meenakshi and they have also predeceased Lakshmi. Since K.Lakshmi died, the Will came into effect and the petitioner had filed this petition seeking Letters of Administration.

3. The petitioner examined herself as P.W.1 and Exs.P1 to P13 were marked.

4. Ex.P3 is the death certificate of K.Lakshmi. Exs.P5 and P6 are the death



certificates of the Lakshmi's sisters by name Kasthuri and Meenakshi. The Will dated 21.11.2020 has been marked as Ex.P7. The death certificate of testatrix has been marked as Ex.P8. Paper publication issued in one issue of Tamil daily “Makkal Kural” and in one issue of English daily “Trinity Mirror” did not attract any objectors. The copies of the title deeds pertaining to the petition mentioned properties has been marked Exs.P9 to P11. Ex.P4 which is the legal heirship of the deceased husband of Lakshmi would show that Lakshmi alone is the legal heir of her husband. Despite the brother of Lakshmi impleaded as respondent, he did not raise any objection.

5. One of the attestors by name M.J.Lokesh Prabhu has been examined as P.W.2 and he had stated that himself and another attesting witness M.J.Giriprasad were present at the time when the testatrix had executed the Will. He had further stated that himself and GiriPrasath have affixed their signature on the Will as the attestors in the presence of testatrix. He further stated that the testatrix was said to be in sound and disposing state of mind at the time when the Will was executed.

6. With the statement of P.W.1 and P.W.2 and other documents in record, the petitioner had 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



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Section 68 of the Indian Evidence Act. Since the petitioner had proved the genuineness of the Will, the relief sought shall be granted.

7. Hence, this Original Petition is allowed by granting Letters of Administration to the petitioner with the Will dated 21.11.2020 of K.Lakshmi annexed thereto. Such Letters of Administration shall have effect throughout the State of Tamil Nadu. The 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 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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APPENDIX

Petitioner's witness:

P.W.1 – J.Shanthi

P.W.2 – M.J.Lokesh

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
P1	Death certificate of M.P.Arunachalam
P2	Death certificate of Radha Bai
P3	Death certificate of M.L.Krishnan
P4	Legal heirship certificate of M.L.Krishnan
P5	Death certificate of Kasthuri
P6	Death certificate of A.Meenakshi
P7	Original Will dated 21.11.2020
P8	Death certificate of K.Lakshmi
P9	Sale deed executed on 11.07.1975
P10	Sale deed executed on 27.10.1976
P11	Sale deed executed on 12.12.2019
P12	Paper publication dated 21.06.2023
P13	Paper publication dated 28.06.2023

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