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O.P.No.464 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **05.09.2023**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No. 464 of 2022

RaghunandanPrabhakar

...

Petitioner

Vs.

Ravindran Prabhakar

....

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 of the properties and credits of the deceased to the petitioner being the nephew / beneficiary under the Will having effect throughout the State of Tamil Nadu.

For Petitioner : Mr.Harshit S.Jain

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 to grant Letters of Administration with the Will annexed of the properties and credits of the deceased to the petitioner being the nephew / beneficiary under the Will having effect throughout the State of Tamil Nadu.



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

The petition mentioned property was originally belonged to one Padmavathy Ammal as self acquired property by virtue of a sale deed dated 11.06.1973. During her lifetime she executed an unregistered Will dated 27.10.1993 by bequeathing the petition mentioned property in favour of her brother A.Y.Prabhakar and his two sons Ragunanthan and Ravindran who are the petitioner and respondent herein. Padmavathy Ammal died on 18.04.1984. It is submitted that the brother of Padmavathy Ammal who is the father of the parties died on 11.11.2004. Subsequent to the death of Padmavathy Ammal, the father of the parties A.Y.Prabhakar had not taken out any petition to get Letters of Administration in respect of Will dated 27.10.1993. Now the petitioner has filed this petition seeking Letters of Administration.

3. The learned counsel for the petitioner submitted that the parties were not aware of the Will executed by their paternal aunt Padmavathy Ammal and their father also did not inform about the existence of the Will. Till the lifetime of A.Y.Prabhakar who is the father, he had not taken any initiative to get Letters of Administration in respect of the Will.



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4. The petitioner examined himself as P.W.1 and Exs.P1 to P9 were marked.

5. The respondent who is the brother of the petitioner had given consent affidavit in favour of the petitioner which is marked as Ex.P7. The Will executed by late Padmavathy Ammal is marked as Ex.P1. The death certificate of Padmavathy Ammal which is marked as Ex.P2 shows that she died on 18.04.1994. The brother of Padmavathy Ammal who is the father of the parties by name A.Y.Prabhakar died on 11.11.2004 and his death certificate is marked as Ex.P4. The legal heirship certificate of A.Y.Prabhakar which is marked as Ex.P5 would show that the petitioner and the respondent are his only surviving legal heirs. Paper publication issued in one issue of Tamil daily “Makkal Kural” on 04.04.2023 did not attract any objectors.

6. The learned counsel for the petitioner submitted that the whereabouts of both the attestors of the Will are not known. Hence the petitioner had taken out an application to examine the person who is conversant with the signature of the testatrix and the attestors.



7. One M.Basker has been examined as P.W.2 and he had stated in

his evidence that he is known to the family of the testatrix and he was present at the time when the Will was executed in the presence of the attesting witnesses by name Rangachari and Durairaj. It is further stated that the testatrix was found to be in sound and disposing state of mind at the time of execution of the Will. He is also able to identify the signatures of the the testrix.

8. With the statement of P.W.1 and P.W.2 and other documents on record, the first petitioner has 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. Since the petitioner had proved the genuineness of the Will and the consent affidavit has been filed by the respondent to issue Letters of Administration in favour of the petitioner, the relief sought shall be granted.

9. Hence, this Original Petition is allowed by granting Letters of Administration to the petitioner with the Will dated 27.10.1993 of Padmavathy Ammal annexed thereto. Such Letters of Administration shall have effect throughout the State of Tamil Nadu. The petitioner is directed to



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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 – Raghunandan Prabhakar

P.W.2 – M.Basker

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
P1	Original Will dated 27.10.1993
P2	Death certificate of Padmavathy Ammal
P3	Photocopy of relationship certificate of Padmavathy Ammal
P4	Death certificate of A.Y.Prabhakar
P5	Legal heirship certificate of A.Y.Prabhakar
P6	Sale deed dated 11.06.1973
P7	Consent affidavit of the respondent
P8	Affidavit of assets
P9	Paper publication dated 04.04.2023.

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