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O.P.No.698 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2023

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

O.P.No.698 of 2021

Karthikeyan (deceased)

2.Radhika

3.Mohan Raj

4.Ashwanthraj, minor

Represented by his natural guardian

mother Mrs.Radhika

... Petitioners

(P2 to P4 are brought on record and P2 to P4
and R1 are the legal representatives of the
deceased P1 as per the order dated 29.08.2022
in A.No.3712 of 2022 in O.P.No.698 of 2021)

Vs

1.Mrs.D.Vijjayalakshmi

2.D.Sivaraman

3.Nithyakalyani

... Respondents

PRAYER: Original Petition filed for issuance of Letters of Administration under Section 232 & 276 of the Indian Succession Act, r/w.XXV Rule 5 of the Original Side Rules, prays that the Letters of Administration with the Will of the deceased annexed may be granted to the petitioner as the legatee (brother son) named under the Will of the deceased.

For Petitioners : Mr.Naveen
for Mr.M.Eghambharam



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For Respondents : No appearance

ORDER

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This Original Petition has been filed for issuance of Letters of Administration in respect of the Will dated 22.11.2018 executed by late A.M.Susheela @ A.M.Sushila, who died on 30.10.2019. The first petitioner (now deceased) is the nephew, who is the brother's son of the testatrix. The second to fourth petitioners are the legal heirs of the first petitioner brought on record as per order dated 29.08.2022. The first respondent is the sister in-law, second respondent is the nephew and the third respondent is the niece of the testatrix, who are also the mother, brother and sister of the first petitioner. The first petitioner is the sole beneficiary under the Will. The testatrix has not appointed any executor under the Will. The petitioners seeks issuance of Letters of Administration in respect of the properties situate within the jurisdiction of this Court.

2. The petitioner submits that the testatrix was married to one Dr.G.Ramakrishnan, and out of the wedlock they have no issues. The husband of the testatrix has pre-deceased her. The parents and the in-laws of the testatrix has also pre-deceased her. The testatrix has only one brother namely A.M.Devarajan and he died on 27.03.2003. the petitioner and the



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respondents are the legal heirs of the deceased brother A.M.Devarajan.

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3.The second petitioner has been examined as P.W.1. She has produced the death certificates of the testatrix A.M.Susheela @ A.M.Sushila, G.Ramakrishnan (husband of the testatrix), A.M.Devarajan (brother of the testatrix) as, Exs.P4, P2 and P8. The Original Will dated 22.11.2018, has been produced as Ex.P1. The legal heirship certificate of G.Ramakrishnan is marked as Ex.P3. A perusal of Ex.P3 shows that the testatrix is the only Class-I legal heir, and the testatrix has no issues. The legal heirship certificate of A.M.Devarajan is marked as Ex.P7. A perusal of Ex.P7 shows that the first petitioner (deceased) and the respondents are the only Class-I legal heirs of late A.M.Devarajan. Despite the notice served had duly received by the respondents none had chosen to appear before this Court either in person or through their counsel. Pursuant to the general publications made, any objections have not been received, from the respondents herein or from any other person.

4. The petitioners has examined one Mr.S.Balaji, who is the first attesting witness to the said Will as P.W.2. He has spoken about the execution of the Will by the testatrix and its attestation by himself. One Mr.R.Rajesh, who is the second attesting witness to the said Will was



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examined as P.W.3. He has also spoken about the execution of the Will by the testatrix and its attestation by himself.

5. In view of the above said facts and evidence, this Original Petition is ordered and Letters of Administration is granted in favour of second to fourth petitioners, in respect of the Will dated 22.11.2018 of the testatrix A.M.Susheela @ A.M.Sushila. The second to fourth petitioners are 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 second to fourth petitioners are 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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Index :Yes/No

Speaking order: Yes/ No

Neutral citation: Yes/ No

Petitioner's witness:

P.W.1 - Mrs.Radhika

P.W.2 – Mr.S.Balaji

P.W.3 – Mr.R.Rajesh

Documents exhibited by the petitioner:



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<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Original registered Will dated 22.11.2018 executed by A.M.Susheela @ A.M.Sushila
Ex.P2	Computer generated death certificate of G.Ramakrishnan
Ex.P3	Photocopy of the legal heir certificate of G.Ramakrishnan
Ex.P4	Computer generated death certificate of A.M.Susheela
Ex.P5	Photocopy of the property tax demand card of T.Saraswathi
Ex.P6	Photocopy of Aadhar card of the A.M.Susheela
Ex.P7	Photocopy of legal heirship certificate of A.M.Devarajan
Ex.P8	Photocopy of the death certificate of A.M.Devarajan
Ex.P9	Computer generated death certificate of A.Govindasamy
Ex.P10	Photocopy of legal heirship certificate of A.Govindasamy
Ex.P11	Computer generated death certificate of G.Kumudha
Ex.P12	Affidavit of assets showing the net value of the estate as Rs.1,24,77,800/-
Ex.P13	Computer generated death certificate of D.Karthikeyan
Ex.P14	Copy of paper publication effected in one issue of Tamil daily "Dina Kural" dated 09.02.2023
Ex.P15	Copy of paper publication effected in one issue of English daily "Southern Mail" dated 17.02.2023
Ex.P16	Photocopy of the Sale Deed dated 06.05.1985 executed in favour of A.M.Susila
Ex.P17	Photocopy of the Sale Deed dated 06.05.1985 executed in favour of Dr.G.Ramakrishnan
Ex.P18	Photocopy of the Sale Deed dated 06.05.1985 executed in favour of A.M.Susila
Ex.P19	Photocopy of the Sale Deed dated 06.05.1985 executed in favour of Dr.G.Ramakrishnan
Ex.P20	Photocopy of the Sale Deed dated 06.05.1985 executed in favour of Dr.A.M.Susila
Ex.P21	Computer generated legal heir certificate of Karthigeyan



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<i>Exhibits</i>	<i>Documents</i>
Ex.P22	Affidavit of the 1 st attesting witness PW2
Ex.P23	Affidavit of the 2 nd attesting witness PW3

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