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O.P.No.781 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2023

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

O.P.No.781 of 2021

R.Balasubramanian

... Petitioner

VS

1.S.Sundari
2.R.Gomathi

... Respondents

PRAYER: Original Petition filed for Letters of Administration under Sections 232 and 276 of Indian Succession Act (Act 39 of 1925) R/W. Order XXV Rule 5 of Original Side Rules, prays that the Letters of Administration with the Will dated 29.04.1999 annexed may be granted to the petitioner as son/beneficiary/legatee of the said deceased having effect through the state of Tamilnadu.

For Petitioner : M/s.S.Sathiyarayanan

ORDER

The petitioner seeks the grant of letters of administration in respect of the estate bequeathed under the last Will and testament of his father, S.Ramasubramanian.



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2. The petitioner asserts that his late father, S.Ramasubramanian executed the Will on 29.04.1999 at Chennai in the presence of two witnesses, namely, V.Rajendran and S.Vasudevan. It is stated that the immovable assets described in schedule A to this petition were bequeathed under the Will absolutely to the petitioner. Since no executor was named under the Will, the present petition is filed by the beneficiary. The petitioner states that the only other class I legal heirs are the petitioner's mother and sister, who have been joined as respondents to the petition.

3. In order to prove the Will, the petitioner adduced evidence by examining himself as PW1. In course of the examination-in-chief of PW1, the nine documents listed at the foot of this order were exhibited as Exs.P1 to P9. The original Will dated 29.04.1999 (Ex.P2) is a holographic Will. The said Will was attested by two witnesses, namely, V.Rajendran and S.Vasudevan. The immovable asset described in Schedule A to the petition had been bequeathed to the petitioner subject to the right of the first respondent/mother of the petitioner to live in the said house and subject to her right to a ½ share in the house if such house is brought for sale by the



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petitioner. The movable assets have also been dealt with in the said Will.

Other than the assets specifically dealt with therein, the residuary has also been bequeathed in favour of the petitioner. The death certificate of the testator (Ex.P3) discloses that the testator died on 18.04.2021. His address is mentioned therein and such address is within the jurisdiction of this Court. The legal heirship certificate (Ex.P4) in respect of the testator discloses the names of the petitioner and the two respondents herein as the surviving class I legal heirs. Learned counsel submitted, on instructions, that the testator died at the age of 95 and that his mother pre-deceased him. Both the respondents have provided consent affidavits (Exs.P6 and P7). Paper publications were effected (Exs.P8 & P9).

4. One of the attesting witnesses, namely, Mr.Rajendran, was examined as PW2. He also filed an affidavit in this regard (Ex.P10). He deposed that the testator was his senior colleague. He further deposed that the Will was executed in his presence and that the testator was in a sound and disposing state of mind at the time of execution of the Will.



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5. Based on the evidence adduced by the petitioner, the Will stands duly proved. Consequently, the petitioner is entitled to the relief claimed.

6. For reasons set out above, O.P.No.781 of 2021 is allowed by directing that letters of administration be issued to the petitioner by annexing the Will dated 29.04.1999. Such letters of administration shall have effect throughout the State of Tamilnadu. The petitioner shall execute a security bond for a sum of Rs.25,000/- in the name of the Assistant Registrar (Original Side). The petitioner shall submit 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

Petitioner's witness:

P.W.1 – Mr.R.Balasubramanian

P.W.2 – Mr.V.Rajendran



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Documents exhibited by the petitioner:

<i>Exhibit No.</i>	<i>Description</i>
Ex.P1	The photocopy of the Sale Deed dated 30.10.1990 (Compared with the original).
Ex.P2	The original Will dated 29.04.1999 executed by Mr.S.Ramasubramanian.
Ex.P3	The computer generated death certificate of S.Ramasubramanian.
Ex.P4	The computer generated Legal Heirship certificate of S.Ramasubramanian.
Ex.P5	The affidavit of assets showing the net value of the estate as Rs.3,25,80,000/-.
Ex.P6	The consent affidavit given by the 1 st respondent.
Ex.P7	The consent affidavit given by the 2 nd respondent
Ex.P8	The copy of paper publication effected in one issue of Tamil daily "Makkal Kural" dated 26.10.2022.
Ex.P9	The copy of paper publication effected in one issue of English daily "Trinity Mirror" dated 02.11.2022
Ex.P10	The affidavit of attesting witness - PW2.

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