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O.P.No.533 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2023

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

O.P.No.533 of 2009

1.Chandrakumari

2.Radha Rani

3.P.Neelakrishnan

4.N.Sujatha

... Petitioners

(Petitioners 3 & 4 are Lrs of the deceased 1st petitioner Mrs.Chandrakumari and brought on record as per order of the Court dated 21.12.2022)

Vs

1.Mohana

2.Kalavathi

3.Satyakumari

4.Anitha

5.R.Balakrishnan

... Respondents

PRAYER: Original Petition filed for issuance of Letters of Administration under Section 232, 255 & 276 of the Indian Succession Act, r/w.XXV Rule 5 of the Original Side Rules, prays that the Letters of Administration with certified copy of the Will of the deceased annexed may be granted to them as they are daughters/ legal heirs as well as legatees under the Will of the deceased.

For Petitioners : Mr.M.S.Mani

For Respondents : No appearance



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ORDER

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2. The present original petition seeking Letters of Administration was originally dismissed, by order dated 20.11.2012, as the attestation of the will as provided under sections 68 of the Indian Evidence Act, was not proved. The same had been challenged by the petitioners in O.S.A.No.137 of 2013, and in which the division bench of this court by order dated 14.07.2022, had set aside the order of the learned single judge and remitted the matter back for consideration.

3. The petitioner has examined one N.Palani, who is the attesting witness to the said Will as P.W.2. He has spoken about the execution of the Will by the testator and its attestation by himself and Mr.A.N.Damodaran.



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4. It is brought to the notice that, under Ex.P8, the 4th respondent in this original petition had in the interregnum filed O.P.No.355 of 2012, limited to the properties mentioned in the affidavit of assets. In this petition the execution and attestation of the Will of T.Venkatrathnam has already been held to be proved. Therefore, the Will that is sought to be probated is held to be proved in view of that order. Therefore, the letters of administration has granted to the petitioners in respect of the properties mentioned in the affidavit of assets.

5. In view of the above, this Original Petition is allowed and Letters of Administration is granted with the certified copy of the Will annexed in favour of the petitioners in respect of the Will dated 22.10.1998 of the testator T.Venkatarathnam. The petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) in the name of the Assistant Registrar (Original Side) of this court. The peititoners 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

Petitioner's witness:

P.W.1 - Mrs.N.Sujatha

P.W.2 – Mr.N.Palani

Documents exhibited by the petitioners:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Certified copy of the registered Will dated 22.10.1998 executed by Mr.Venkatrathnam Chettiar (Witness states that the original Will is with the executor who is the 5 th respondent and the same has been averred in para 7 of my proof affidavit. This document is marked subject to its admissibility, proof and relevancy).
Ex.P2	Original death certificate of Mr.T.Venkatrathnam
Ex.P3	Death certificate of Mrs.V.Shenbagam
Ex.P4	Affidavit of assets showing the net value of the estate as Rs.17,30,450/-
Ex.P5	Certified copy of the affidavit of attesting witness filed by Mr.N.Palani in O.P.No.355 of 2012.
Ex.P6	Certified copy of the deposition of Mr.N.Palani in O.P.No.355 of 2012 dated 19.11.2018.
Ex.P7	Death certificate of Mr.A.N.Damodharan
Ex.P8	Certified copy of the order in O.P.No.355 of 2012 passed by the Hon'ble Court on 11.02.2019.
Ex.P9	Copy of paper publication effected in one issue of Tamil daily "Malai Malar" dated 06.08.2011.
Ex.P10	Copy of paper publication effected in one issue of English daily "News Today" dated 09.09.2011

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