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O.P.No.660 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2023

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

**O.P.No.660 of 2022**

K.J.Ramesh

... Petitioner

**PRAYER:** Original Petition filed for issuance of Letters of Administration under Section 232 & 276 of the Indian Succession Act, 1925 r/w.XXV Rule 5 of the Original Side Rules, prays that the Letters of Administration with Will annexed of the properties and credit of the deceased may be granted to him as foster son/ beneficiary under the Will of the deceased.

For Petitioner : Mr.M.Sankar

**ORDER**

This Original Petition has been filed for issuance of Letters of Administration in respect of the Will dated 16.03.2018 executed by late K.S.Sankariah, who died on 25.03.2020. The petitioner is the nephew of the testator. The petitioner is the sole beneficiary under the Will. The petitioner seeks issuance of Letters of Administration in respect of the properties situate within the jurisdiction of this Court.



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2. The petitioner states that the wife of the testator has pre-deceased him, and out of the wedlock they have no issues, and so the testator has no Class-I legal heirs. The testator had one brother namely K.S.Janakiram and the petitioner is the son of this brother, as the testator had no children this petitioner was brought up by the testator and his wife as their son, so the properties are bequeathed absolutely in the name of the petitioner herein.

3. The petitioner has been examined as P.W.1. He has produced the death certificates of the testator K.S.Sankariah and K.S.Prema (wife of the testator), as Exs.P4 and P1. The Original Will dated 16.03.2018 has been produced as Ex.P3. The legal heirship certificate of the testator's wife has been marked as Ex.P2, and on perusal of Ex.P2 it shows that the testator has no surviving class-I legal heirs. A paper publication has been made and any objections have not been received.

4. The petitioner has examined one Mr.K.M.Ramamurthy, who is the second 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.Kannan.



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5. In view of the above said facts and evidence, this Original Petition

is ordered and Letters of Administration is granted in favour of the petitioner, in respect of the Will dated 16.03.2018 of the testator K.S.Sankariah. 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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Index :Yes/No

Speaking: Yes/ No

Neutral Citation: Yes/ No

**Petitioner's witness:**

P.W.1 - Mr.K.J.Ramesh

P.W.2 – Mr.K.M.Ramamurthy

**Documents exhibited by the petitioners:**

| <i><b>Exhibits</b></i> | <i><b>Documents</b></i>                                                                                                                      |
|------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|
| Ex.P1                  | Photocopy of the death certificate of Mrs.K.S.Prema                                                                                          |
| Ex.P2                  | Photocopy of the legal heir certificate of Mrs.K.S.Prema                                                                                     |
| Ex.P3                  | Original registered Will dated 16.03.2018 executed by Mr.K.S.Sankariah and registered as document No.57/2018 before the Sub Registrar, Arani |
| Ex.P4                  | Computer generated death certificate of K.S.Sankariah                                                                                        |
| Ex.P5                  | Photocopy of the registered sale deed dated 22.12.1989 as                                                                                    |



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| <i><b>Exhibits</b></i> | <i><b>Documents</b></i>                                                                             |
|------------------------|-----------------------------------------------------------------------------------------------------|
|                        | Document No.319/ 1989 before the Sub-Registrar, Purasaiwakkam                                       |
| Ex.P6                  | Affidavit of asset showing the net value of the property Rs.35,00,000/-                             |
| Ex.P7                  | Copy of paper publication effected in one issue of Tamil daily “Makkal Kural” dated 02.02.2023      |
| Ex.P8                  | Copy of paper publication effected in one issue of English daily “Trinity Mirror” dated 09.02.2023. |
| Ex.P9                  | Affidavit of attesting witness PW2                                                                  |

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