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O.P.No.459 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **21.02.2023**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

O.P.No.459 of 2022

1.Usha R.Prabakaran
2.G.P.Prajnesh

... Petitioners

-VS-

G.Chandralakshmi

... Respondent

PRAYER: Original Petition filed under Sections 232 and 276 of the Indian Succession Act, 1925, Read With Order XXV Rule 4 of the O.S.Rules, 1955, pleased to grant Letters of Administration with the Will annexed to the petitioners (i.e) Wife and son as the beneficiaries under the Will of the said deceased S.G.Prabhakaran dated 16.06.2013 having effect limited to the State of Tamil Nadu.

For Petitioners : Mr.K.Balamurali
for M/s.Shivakumar & Suresh

For Respondent : Ms.D.Anitha for M/s.R.Kaandeeban



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ORDER

The petitioners seek the grant of letters of administration with the last Will and testament of S.G.Prabhakaran dated 16.06.2013 annexed thereto.

2. The petitioners assert that the first petitioner was the wife of Mr.S.G.Prabhakaran and the second petitioner is his son. The petitioners state that the late Mr.S.G.Prabhakaran executed an unregistered Will dated 16.06.2013 in the presence of D.Muthu Narayanan and S.Gopinath. Since no executor was named in the Will, the petitioners have presented the petition as the beneficiaries under the Will. The testator's mother has been joined as the respondent because she is the other class-I legal heir of the testator.

3. In order to prove the Will, the petitioners adduced evidence by examining the first petitioner as P.W.1. In course of the examination-in-chief of P.W.1, the 13 documents listed at the foot of this order were exhibited as Exs.P1 to P13. The original unregistered Will (Ex.P1)



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discloses that the Will was attested by Mr.D.Muthu Narayanan and Mr.S.Gopinath. On perusal, no executor has been named under the Will.

The bequest thereunder is in favour of the petitioners herein. The death certificate of the testator (Ex.P2) discloses that he died on 09.11.2019. The legal heirship certificate in respect of the testator (Ex.P3) discloses the names of the two petitioners and the respondent as the surviving class-I legal heirs of the deceased. As evidence of the testator's title to the relevant assets, Exs.P4 to P9 have been placed on record. The sole respondent has provided a consent affidavit (Ex.P11). Paper publications were effected (Exs.P12 and P13).

4. The two attesting witnesses were examined as P.W.2 and P.W.3. Both of them deposed that they were family friends of the testator. They further deposed that the Will was executed in their 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 assertions in the petition and the evidence adduced in support thereof, the Will stands duly proved. As a consequence, the petitioners are entitled to the relief claimed.

6. For reasons set out above, O.P.No.459 of 2022 is allowed by granting letters of administration to the petitioners with the Will of the late S.G.Prabhakaran dated 16.06.2013 annexed thereto. Such letters of administration shall have effect throughout the State of Tamil Nadu. The 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 petitioners shall provide 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

Internet : Yes / No

Petitioner's witness:

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P.W.1 - Mrs.Usha R.Prabakaran

P.W.2 - Mr.D.Muthunarayanan

P.W.3 - Mr.S.Gopinath

Documents exhibited by the petitioners:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Original unregistered Will dated 16.06.2013 executed by Mr.S.G.Prabhakaran.
Ex.P2	Computer generated death certificate of Mr.S.G.Prabhakaran.
Ex.P3	Computer generated Legal Heirship certificate of Mr.S.G.Prabhakaran.
Ex.P4	Photocopy of the property tax demand card standing in the name of Mr.S.G.Prabhakaran (Compared with the original).
Ex.P5	Photocopy of the sale deed dated 10.07.2002 (Compared with the original).
Ex.P6	Photocopy of the property tax demand card standing in the name of Mr.S.G.Prabakaran (Compared with the original).
Ex.P7	Photocopy of the registered Conveyance Deed dated 28.03.2003 (Compared with the original).
Ex.P8	Photocopy of the sale deed dated 23.06.2010 (Compared with the original).
Ex.P9	Photocopy of the property tax demand card standing in the name of Mr.S.G.Prabakaran (Compared with the original).
Ex.P10	Affidavit of assets showing the net value of the estate as Rs.27,43,260/-.
Ex.P11	Consent affidavit given by the respondent.
Ex.P12	Copy of paper publication effected in one issue of Tamil daily "Makkal Kural" dated 08.12.2022.



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<i>Exhibits</i>	<i>Documents</i>
Ex.P13	Copy of paper publication effected in one issue of English daily "Trinity Mirror" dated 15.12.2022.
Ex.P14	Affidavit of Mr.D.Muthunarayanan
Ex.P15	Affidavit of Mr.S.Gopinath.

SKRJ

SENTHILKUMAR RAMAMOORTHY,J



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