

**O.P. No.645 of 2022****N.SATHISH KUMAR, J.**

This Petition has been filed under Sections 232 and 276 of the Indian Succession Act, 1925 read with Order XXV Rule 5 of the Original Side Rules, seeking grant of Letters of Administration.

2. This petition has been filed for grant of Letters of Administration in respect of the Will of one Viswanathan executed on 08.01.1992. The petitioners and the respondent are son and daughters of the testator. The testator died on 24.05.2022. The deceased had executed the Will on 08.01.1992 bequeathing 2/3rd share in favour of the petitioners* and in respect of the remaining 1/3rd share in the property, the testator had already settled the same in favour of the respondent herein. On the date of death of the testator the Will came into effect.

3. The petitioners hereby undertake to duly administer the specified property and credits of the deceased in any way concerning his Will by paying the debts first and then the legacies therein bequeathed so far as the assets will extend and to make full and true inventory thereof and exhibits the same in this Court within six months from the date of the grant of a Letters of Administration with the Last Will annexed to the petition and also to render to this Court a true account of the said property within one year from the said date.

4. The 1st petitioner examined himself as P.W.1 and marked Ex.P.1 to Ex.P.9. P.W.1 in his evidence has narrated the averments made in the petition stating that the petitioners have filed this petition for grant of Letters of



Administration in favour of the petitioners in respect of the Last Will and Testament executed by the deceased Viswanathan on 08.01.1922. Ex.P.1 is photocopy of the sale deed dated 16.02.1979 executed in favour of Mr.T.Viswanathan. Ex.P.2 is the photocopy of the settlement deed dated 23.08.1989 executed in favour of Mrs.Shanthi Shanmugam. Ex.P.3 is the original Will dated 08.01.1992 executed by Viswanathan. Ex.P.4 is the computer generated death certificate of Viswanathan. Ex.P.5 is the computer generated legal heir certificate of Viswanathan. Ex.P.6 is the computer generated legal heir certificate of Mrs.V.Lalitha. Ex.P.7 is the affidavit of assets showing the net value of estate as Rs.2,05,00,000/- . Ex.P.8 is the copy of paper publication effected in one issue of Tamil Daily “Makkal Kural” dated 18.07.2023. Ex.P.8 is the copy of paper publication effected in one issue of English Daily “Trinity Mirror” dated 25.07.2023. Though paper publications were effected, none has objected the claim of the petitioners.

5. One Mrs.Shanthi Shanmugam, who is one of the attesting witnesses in the Will and none other than the sister of the petitioners was examined as R.W.1. In her evidence, she has stated that the testator was in sound state of mind while executing the Will and she had also seen the testator signing the Will and the other attesting witness subscribing in the document. She has also stated that the testator had seen the attesting witnesses subscribing their signature in the Will. P.W.2-T.Balakrishnan, who was the other attesting witness and was examined by the Advocate Commissioner on the orders of this court, has also stated that the



testator was in sound state of mind while executing the Will and he had seen the testator signing the Will and the other attesting witness subscribing in the document. He admitted his signature in the Will in question. He has also stated that the testator had seen the attesting witnesses subscribing their signature in the Will. There was no cross examination by the respondent. The evidence of the attesting witnesses would not only prove the execution but also attestation of the Will and there is no other materials to suspect the Will.

6. In view of the above facts, I am of the view that the petitioners have proved the execution and attestation of the Will. Hence, the petitioners are entitled for the issuance of Letters of Administration in their favour.

7. Accordingly, this petition is allowed. Issue Letters of Administration in favour of the petitioners. The petitioners are directed to duly administer the properties and credits of the deceased more fully described in the schedule. The petitioners are also directed to execute a security bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) in favour of the Assistant Registrar (O.S.II), High Court, Madras. The petitioners are further directed to render true and correct accounts once in a year.

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