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O.P.No.275 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **02.02.2023**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

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1.G.Padma
2.G.Ramanujam
3.V.Ranganayagi
4.V.Revathi
5.V.Radhakrishnan
6.V.Sridevi
7.V.Srinivasa Balakrishnan
Petitioners

...

-VS-

1.N.Srinivasan
2.N.Rajasekaran
3.N.Rajalakshmi
4.N.Loganayagi
5.N.Bakthapriya
6.N.Vijayalakshmi
7.Mrs.Indra Alavandar

... Respondents

PRAYER: Original Petition filed under Sections 232 and 276 of the Indian Succession Act, 1925, read with Order XXV Rule 5 of High Court O.S.Rules, for grant of Letters of Administration with the Will annexed of



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the properties and credits to the petitioners as well and other beneficiaries under the Will of the said deceased to have effect throughout the State of Tamilnadu.

For Petitioners : Mrs.P.Bhuvaneshwari

ORDER

The petitioners seek the issuance of letters of administration with the Will annexed in respect of the last Will and testament of the late Dr.S.Alavandar.

2. The petitioners assert that the testator executed his last Will and testament on 18.11.2004 at Kilpauk, Chennai. The said Will was attested by two witnesses, namely, K.R.Venkatesh and P.Nammalvar. The Will was registered as Document No.121 of 2004 on the file of the Sub Registrar, Anna Nagar. Under the Will, the properties described under schedules 1 to 4 were bequeathed in favour of four persons, namely, G.Padma,



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S.Nammalvar, G.Ramanujam and S.Varalakshmi in equal moieties. Out of the four original legatees, two persons, namely, S.Nammalvar and S.Varalakshmi died. The petitioners assert that S.Nammalvar was survived by respondents 1 to 7 as his legal heirs and that his wife N.Andal Ammal died, thereafter, on 02.06.2016. The other deceased legatee, S.Varalakshmi, died on 20.08.2017. Her legal heirs were her husband, Varadharajan, and petitioners 3 to 7. Varadharajan died on 27.09.2017.

3. After the death of the testator, Dr.S.Alavandar, on 06.02.2017, the present petition is filed by the surviving original legatees and the legal heirs of the deceased legatees.

4. In order to prove the Will and establish entitlement to the relief claimed, the petitioners adduced evidence by examining the second petitioner as P.W.1. In course of the examination in chief of P.W.1, the 14 documents listed at the foot of this order were exhibited as Exs.P1 to P14. The original registered Will (Ex.P2) discloses that the Will was registered as Document No.121 of 2004 before the SRO, Anna Nagar. The Will was



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attested by Mr.K.R.Venkatesh and Mr.P.Nammalvar. Under the Will, the assets described in the schedules thereto were bequeathed to the first and second petitioners and the late S.Nammalvar and S.Varalakshmi. The death certificate of the testator discloses that he died on 06.12.2017. The legal heirship certificate of the testator discloses the name of his wife, Indra Alavandar, as his only surviving legal heir. The consent affidavit of the testator's wife is on record. The death certificate of Nammalvar (Ex.P4) discloses that he died on 06.09.2006. As proof of the legal heirs of Nammalvar having been joined as parties to the proceeding, the petitioners have placed on record the decree in O.S.No.114 of 1995, which shows that they were impleaded as respondents 12 to 18. As proof of joining the legal heirs of Andal Ammal, the certified copy of the Memorandum of Appeal in A.S.No.17 of 2003 has been exhibited as Ex.P5. This document shows that respondents 13 to 18 therein are the legal heirs. All such persons have been joined as parties to this petition.

5. The petitioners examined one of the attesting witnesses, Mr.K.R.Venkatesh, as P.W.2. He deposed that the testator was his relative



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and that he had known him for about 40 years. He also deposed that the Will was executed in his presence and that of the other attesting witness. He further deposed that the testator was in a sound and disposing state of mind when the Will was executed.

6. Based on the assertions in the petition and the evidence adduced in support thereof, the Will stand duly proved. Consequently, the petitioners are entitled to the relief claimed.

7. For reasons set out above, O.P.No.275 of 2020 is allowed by granting letters of administration to the petitioners with the Will annexed in respect of the estate of the late Dr.S.Alavandar. The petitioners shall 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

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Petitioner's witness:

P.W.1 - MrG.Ramanujam

P.W.2 - Mr.K.R.Venkatesh

Documents exhibited by the petitioners:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Computer generated death certificate of S.Alavandar.
Ex.P2	Original registered Will executed by Dr.S.Alavandar on 18.11.2004 executed as Document No.121 of 2004 before the SRO, Anna Nagar.
Ex.P3	Computer generated copy of the Legal Heir Certificate of S.Alavandar.
Ex.P4	Computer generated death certificate of Nammalvar.
Ex.P5	Certified copy of the amended copy of the memorandum of appeal filed on behalf of the appellants / plaintiffs in A.S.No.17 of 2013 in the Court of the Subordinate Judge, Kovilpatti.
Ex.P6	Certified copy of the decree in O.S.No.114 of 1995 dated 04.02.2013 passed by the DMC, Kovilpatti.
Ex.P7	Original tax receipt standing in the name of K.N.S.Alavandar.
Ex.P8	Computer generated death certificate of N.Andal Ammal.
Ex.P9	Original death certificate of Varalakshmi.
Ex.P10	Original death certificate of Varatharajan Naicker.
Ex.P11	Computer generated Legal Heir Certificate of Varatharajan Naicker.
Ex.P12	Affidavit of assets showing the net value of the estate as



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<i>Exhibits</i>	<i>Documents</i>
	Rs.25,00,000/-.
Ex.P13	Copy of paper publication effected in one issue of Tamil daily "Makkal Kural" dated 03.10.2021.
Ex.P14	Copy of paper publication effected in one issue of English daily "Trinity Mirror" dated 11.10.2021.
Ex.P15	Affidavit of attesting witness in this regard.



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