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O.P.No.116 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2023

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

O.P.No.116 of 2022

B.S.Guruprasad
@ B.S.Kannan,
No.5/137, A Type,
66th Street, SIDCO Nagar,
Phase-I, Villivakkam,
Chennai-600 049.

... Petitioner

-VS-

B.S.Ramani,
“SRI VENKATA NIVAS”,
Plot No.58, New No.77,
5th Block, A-Type,
SIDCO Nagar Phase-1,
Villivakkam,
Chennai-600 049.

... Respondents

PRAYER: Original Petition filed under Sections 232 and 276 of the Indian Succession Act (Act 39 of 1925) r/w. Order XXV Rule 5 of the High Court Original Side Rules, prays that Letters of Administration with the Will dated 27.04.2006 registered as Doc. No.28 of 2006 annexed may be granted to the



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Petitioner as Son/Beneficiary/Legatee under the Will of the said deceased
having effect throughout the State of Tamil Nadu.

For Petitioner : Mr.K.M.C.Arun Mohan for
Mr.S.SAthiyanarayanan

ORDER

The petitioner seeks the grant of letters of administration with the Will annexed in respect of the estate bequeathed under the last Will and testament of his father, B.S.Srinivasa Rao.

2. The petitioner states that his father executed a Will dated 27.04.2006, which was registered as document No.28 of 2006 before the SRO, Konnur. Under the said Will, the property described in the schedule to the petition was bequeathed absolutely in favour of the petitioner herein. Since no executor was named under the Will, the petitioner presented this petition as the beneficiary under the Will.



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WEB COPY 3. The petitioner states that the testator died on 20.10.2018.

According to the petitioner, the only surviving legal heirs of the testator are the petitioner and the respondent herein. In spite of service of notice on the respondent, the respondent has chosen not to contest this petition.

4. In order to establish entitlement to the relief claimed, the petitioner adduced evidence. In course of the examination-in-chief of the petitioner, he was examined as PW1 and the 13 documents listed at the foot of this order were exhibited as Exs.P1 to P13. The last Will and testament of the late B.S.Srinivasa Rao is on record (Ex.P4). This document discloses that it was executed on 27.04.2006. The Will was attested by S.Sathya Narayanan and K.Venugopalan. The property described in the schedule to this petition was bequeathed absolutely in favour of the petitioner under the Will. The testator has stated that he had provided funds for the construction of the ground and first floor of his first son's house at Villivakkam, Chennai and that, therefore, he was not making a bequest for the first son under the Will. The death certificate of the testator (Ex.P5) discloses that he died on 20.10.2018. The



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legal heirship certificate in respect of the testator (Ex.P6) discloses the names of the petitioner and the respondent herein as the surviving class I legal heirs. In the petition, the petitioner has asserted that the mother of the petitioner and the respondent died on 20.11.2013. As evidence of the ownership of the bequeathed asset by the testator, the sale deed dated 19.07.1989, the letter of allotment dated 03.04.1982, the electricity consumption charges cards and water and sewerage tax cum water charges/sewerage service charges cards are exhibited as Exs.P1, P3, P7 and P8. The encumbrance certificate is also on record (Ex.P9). Paper publications were effected (Exs.P11 & P12).

5. The petitioner examined one of the attesting witnesses, S.Sathyan Narayanan, as PW2. PW2 deposed that the testator was his family friend. He also deposed that the Will was executed in his presence and in the presence of the other attesting witness. He further deposed that the testator was in a sound and disposing state of mind at the time of execution of the Will.



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6. Based on the assertions in the petition and the evidence adduced in support thereof, the Will stands proved. Therefore, the petitioner is entitled to the relief claimed.

7. Accordingly, O.P.No.116 of 2022 is allowed by granting letters of administration to the petitioner with the Will dated 27.04.2006 annexed thereto. The petitioner shall provide a security bond for a sum of Rs.25,000/- (Rupees Twenty Five thousand only) in the name of the Assistant Registrar (Original Side) and shall file an inventory of assets and the statement of accounts within a period of six months and one year, respectively.

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Index : Yes

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Petitioner's witness:

P.W.1 – Mr.B.S.Guruprasad @ B.S.Kannan

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Documents exhibited by the petitioner:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	The photocopy of the allotment letter dated 03.04.1982 (Compared with the original).
Ex.P2	The photocopy of the irrevocable general power of attorney dated 15.05.1986 (Compared with the original).
Ex.P3	The photocopy of the Sale Deed dated 19.07.1989 (Compared with the original)
Ex.P4	The original registered Will and Testament dated 27.04.2006 executed by Mr.B.S.Srinivasa Rao.
Ex.P5	The computer generated death certificate of B.S.Srinivasa Rao.
Ex.P6	The computer generated Legal Heirship Certificate of B.S.Srinivasa Rao.
Ex.P7	(Series 2 Nos.) are the photocopies of the electricity consumption charges cards (Compared with the originals).
Ex.P8	(Series 2 Nos.) are the photocopies of the Water & Sewerage Tax – Cum – Water Charges / Sewerage Service Charges Card (Compared with the originals).
Ex.P9	(Series 2 Nos.) are the computer generated encumbrance certificate.
Ex.P10	The affidavit of assets showing the net value of the estate as Rs.17,80,000/-.
Ex.P11	The copy of paper publication effected in one issue of Tamil daily “Makkal Kural” dated 26.10.2022.
Ex.P12	The copy of paper publication effected in one issue of English daily “Trinity Mirror” dated 02.11.2022.
Ex.P13	The affidavit of attesting witness of PW2



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SENTHILKUMAR RAMAMOORTHY,J

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