



O.P.No.679 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **24.07.2023**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No. 679 of 2022

Neelambar Reddy

...

Petitioner

Vs.

1. Kameshwari

2. Kalyani

....

Respondents

Original Petition is filed under Section 232 & 276 of the Indian Succession Act, 1925 (XXXIX of 1925) r/w. Order XXV, Rule 5 of Original Side Rules, 1956, to grant Letters of Administration to the petitioner as the Grandson / legatee named under the Will of the deceased having limited to the State of Tamil Nadu.

For Petitioner : Mr.M.Eghambharam

For Respondents : Mr.R.Narayanan



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ORDER

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This Original Petition has been filed under Section 232 & 276 of the Indian Succession Act, 1925 (Act XXXIX of 1925) read with Order XXV, Rule 5 of the Original Side Rules seeking for grant of Letters of Administration with the Will annexed, to the petitioner as the grandson / legatee under the Will of the deceased K.S.Radhakrishnan having effect limited to the State of Tamil Nadu.

2. The averments in the petition are as follows:-

The petition mentioned property was acquired by the grandfather of the petitioner by name K.S.Radhakrishnan by virtue of a Will dated 31.05.1973 executed by his great grandfather K.P.Sriramulu Reddiar in favour of his grandfather K.S.Radhakrishnan. After the death of K.P.Sriramulu Reddiar, K.S.Radhakrishnan acquired the petition mentioned property and he was in enjoyment of the same. During his lifetime, K.S.Radhakrishnan executed an unregistered Will dated 11.01.1998 by bequeathing the petition mentioned property in favour of the petitioner and by granting the life interest in favour of the father of the petitioner. The testator K.S.Radhakrishnan died on 16.02.1998 and the father of the petitioner Vivekananda Reddiar died on 02.05.2009. The first respondent is



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the mother of the petitioner and the second respondent is his sister. Other than the petitioner and the respondents, the deceased K.S.Radhakrishnan does not have any surviving legal heirs. Even though the schedule mentioned property is situated at Alandur Village, Kancheepuram District which lies outside of the jurisdiction of this Court, the unregistered Will is said to have been executed at Sub-Registrar Office, Saidapet, Chennai which is within the jurisdiction of this Court.

3. The petitioner examined himself as P.W.1 and Exs.P1 to P16 were marked. One of the attestors of the Will by name P.George Wilson was examined himself as P.W.2 and Ex.P17 was marked.

4. The Will has been marked as Ex.P2 which is seen to be an unregistered Will and it reads that the same has been executed at Sub-Registrar Office, Saidapet. The death certificate of the testator K.S.Radhakrishnan is produced as Ex.P4. The death certificate of father of the petitioner is marked as Ex.P6. From the legal heirship certificate of the father of the petitioner it appears that the petitioner and the respondents are the only legal heirs. The consent affidavit of the respondents are marked as Exs.P14 and P15. Ex.P13 is the original missing certificate for Ex.P1 from



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which it is seen that the original sale deed dated 22.12.1937 is in the name of grandfather K.S.Sriramulu Reddiar.

5. Paper publication effected and the same attracted no objectors.

6. One of the attestors of the Will by name P.George Wilson was examined as P.W.2 and he had stated in his evidence that he had attested the Will. He further stated that the testator K.S.Radhakrishnan was in sound and disposing state of mind at the time when the Will was executed. He had also identified the signature of K.S.Radhakrishnan and stated that the testator had affixed his signature in his presence.

7. With the statement of P.W.2 and other documents in record, the petitioner has proved that the Will has been executed in terms of Section 63(c) of the Indian Succession Act and its genuineness is proved in accordance with Section 69 of the Indian Evidence Act.

8. Hence, this Original Petition is allowed by granting Letters of Administration to the petitioner with the Will dated 11.01.1998 of K.S.Radhakrishnan annexed thereto. Such Letters of Administration shall



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have effect throughout the State of Tamilnadu. 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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Internet :Yes/No

Speaking: Non speaking

Neutral:Yes/ No



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APPENDIX

Witnesses examined:

P.W.1 – Mr.Neelambar Reddy

P.W.2 – Mr.P.George Wilson

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
P1	Certified copy of the sale deed dated 22.12.1937 in favour of K.P.Sriramulu Reddiar. (The original is lost and a police complaint has been lodged with Muthialpet Station, Chennai – 01. This document is marked subject to admissibility, proof and relevancy.)
P2	Photocopy of the Will dated 31.05.1973 executed by K.P.Sriramulu Reddiar (compared with the original)
P3	Original Will dated 11.01.1998 executed by K.S.Radhakrishnan
P4	Computer generated death certificate of K.S.Radhakrishnan
P5	Photocopy of the legal heirship certificate of K.S.Radhakrishnan (compared with the original)
P6	Computer generated death certificate of Vivekananda Reddy
P7	Photocopy of the legal heirship certificate of Vivekananda Reddy (compared with the original)
P8	Online encumbrance certificate dated 01.02.2022 for the period 01.01.1997 to 31.01.2022.
P9	Photocopy of the Patta dated 27.05.2016 issued to 1) Kameshwari, 2) Kalyani and 3) Neelambar Reddy (compared with the original)
P10	Computer generated death certificate of Hariharan S, who is one of the attesting witness in Ex.P3 Will.
P11	Copy of paper publication effected in one issue of English daily “Trinity Mirror” dated 17.03.2023.
P12	Copy of paper publication effected in one issue of Tamil daily “Makkal Kural” dated 09.03.2023.
P13	Original missing certificate dated 22.07.2022 issued by Inspector of Police, Crime N3, Muthialpet Police Station, Chennai – 01 for Ex.P1 sale deed.
P14	Consent affidavit of the first respondent



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<i>Exhibits</i>	<i>Documents</i>
P15	Consent affidavit of the second respondent
P16	Affidavit of assets showing the net value of the estate as Rs.2,32,30,000/-
P17	P.W.2's affidavit.

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R.N.MANJULA, J.

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