



O.P.No.476 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2023

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No. 476 of 2022

N.Sundarraaj

...

Petitioner

Vs.

1.Ramani

2.Kamala N.S.

3.R.Koteeswari

4.S.Devi

5.S.Sooriya Kumar

6.S.Preethi

...

Respondents

PRAYER: Original Petition filed for Letters of Administration under Section 232 & 276 of the Indian Succession Act, 1925 read with Order XXV Rule 5 of the Original Side Rules, 1956, prays that the letters of administration with the Will annexed may be granted to him as one of the legatees under the Will of the said deceased and limited to the estate as specified in the affidavit of assets and limited to the State of Tamil Nadu.

For Petitioner : Mr.P.B.Ramanujam

For Respondents : Mr.T.Jagadesan for R3

: No appearance for R1, R2, R4 to 6



O.P.No.476 of 2022

ORDER

WEB COPY This petition has been filed for seeking the Letters of Administration in respect of the Will dated 01.02.2017 executed by one late B.Lalitha.

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

The properties comprised in the Will dated 24.11.2008 which is marked as Ex.P2 were owned by one S. Nandagopal, who is the father of the petitioner, respondents 1 to 3 and one Saravanan. The son Saravanan died on February 25, 2021; hence, his wife and his children have been shown as respondents 4 to 6. The father of the petitioner, S.Nandagopal died on 14.06.2011. During his life time he had executed a registered sale deed dated 24.11.2008 and bequeathed his properties in favour of his children. So far as this petitioner is concerned, he is bequeathed with the 'D' Schedule properties. The respondents 1 to 3 were given with 'A' to 'C' Schedule properties and respondents 4 to 6 were given Rs. 80 lakhs by the petitioner. The petitioner had already filed an original petition in OP. No. 757/2014, along with the third respondent, to seek Letters of Administration. When the summons was pending, the third respondent was not interested in pursuing the matter. Hence, the original petition was dismissed as withdrawn. There is a delay in filing this petition. Despite the fact that the Will contains four



O.P.No.476 of 2022

schedules of properties, the petitioner filed this petition only in respect of 'D' Schedule Property, which has been bequeathed to him. The third respondent is said to have given her consent in favour of the petitioner. Other respondents, despite receiving notice, did not file any objections. Since the Will came into effect after the death of S.Nandagopal, the petitioner is seeking Letters of Administration in respect of the property bequeathed in his favour.

3. The first petitioner examined himself as PW.1 and Ex.P1 to Ex.P9 were marked through him.

4. Ex.P2 is a Will dated November 24, 2008. From Ex.P1, it is seen that S. Nandhagopal died on 14.06.2011. The wife of S. Nadhagopal also died on 11.04.2000 and her death certificate has been marked as Ex.P3. One of the sons of the testator, namely Saravanan, also died on 25.02.2021 and his death certificate was produced as Ex.P5. The consent affidavit of the third respondent has been marked as Ex.P8. Ex.P6 and Ex.P7 are the paper publications issued in one issue of English daily 'Trinity Mirror' dated 27.07.2023 and another issue of Tamil daily 'Makkal Kural' dated 19.07.2023 did not attract any objectors.



5. S.Latha has been examined as PW.2 and her affidavit filed in support of the petition by confirming the genuineness of the Will has been marked as Ex.P10. During the cross-examination of PW.2, who is the second attesor of the Will, Ex.P2, it was stated that S.Nandhagopal is his father-in-law; on 24.11.2008 her father-in-law executed a Will in her presence and at that time, the said Nandagopal seemed to have been in a sound and disposing state of mind and he had signed the Will in her presence and that she had subscribed her signature as a witness.

6. With the evidence available on record, the petitioner has proved that the Will is true and genuine. Thus, the Ex.P2 Will is seen to be fulfilling the essential requirements of Section 63(c) of the Indian Succession Act and with the evidence of the attestor, the Will has also been proved to be true and in accordance with the Section 68 of the Indian Evidence Act. The petitioner has limited his prayer in respect of 'D' Schedule property which has been bequeathed in his favour. Hence, the petitioner is entitled to the relief claimed as prayed for.

7. Accordingly, this Original Petition is **allowed** by granting a Letter of Administration to the petitioner in respect of 'D' Schedule property



O.P.No.476 of 2022

bequeathed to him under the last Will and Testament dated 24.11.2008 of late S.Nandhagopal. The petitioner shall execute a 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 a statement of accounts within a period of six months and one year, respectively.

13.09.2023

jrs

Internet :Yes/No

Speaking: Non speaking

Neutral:Yes/ No



O.P.No.476 of 2022

APPENDIX

Petitioner's witness:

P.W.1 – N.Sundarraaj

P.W.2 – S.Latha

Documents exhibited by the petitioners:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	The computer generated death certificate of Mr.S.Nadagopal
Ex.P2	The Original Will dated 24.11.2008 executed by Mr.S.Nandagopal.
Ex.P3	The computer generated death certificate of Mrs.Kasthuri.
Ex.P4	The photocopy of the legal heir certificate of Mrs.Kasthuri (compared with the original)
Ex.P5	The computer generated death certificate of Mr.Saravanan
Ex.P6	The copy of paper publication effected in one issue of English Daily 'Trinty Mirror' dated 27.07.2023.
Ex.P7	The copy of paper publication effected in one issue of Tamil Daily 'Makkal Kural' dated 19.07.2023.
Ex.P8	The consent affidavit of the third respondent.
Ex.P9	The affidavit of assets showing the net value of estate as Rs.45,00,000/-

13.09.2023



WEB COPY



O.P.No.476 of 2022



WEB COPY



O.P.No.476 of 2022

R.N.MANJULA, J.
jrs

O.P.No. 476 of 2022

13.09.2023