



WEB COPY



O.P.No.245 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2023

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA
O.P.No.245 of 2022

Kilambi Prahlad

... Petitioner

-Vs.-

Mrs.Usha Dilip also called as Mrs.Usha Dilip Kumar

... Respondent

PRAYER: Original Petition filed for issuance of Letters of Administration with Will annexed under Section 232 & 276 of the Indian Succession Act,1925 r/w. Order XXV Rule 5 of the Original Side Rules, prays that the Letters of Administration with a Will annexed of the properties and credits of the deceased may be granted to petitioner as son and beneficiary under the Will of the said deceased VENKATA DILIP KUMAR having effect limited to the State of Tamil Nadu.

For Petitioner : Mr.A.Abdul Ravoof

For Respondent : Mr.E.Subramani



O.P.No.245 of 2022

WEB COPY

ORDER

This petition has been filed for seeking the Letters of Administration in respect of the last Will and Testament of the deceased Venkata Dilip Kumar.

2. The petition mentioned property was originally belonged to one Venkata Dilip Kumar, who is the father of the petitioner and husband of the respondent. The said Venkata Dilip Kumar died on 01.05.2021. During his life time, he executed an unregistered Will dated 01.06.2019 by bequeathing life interest in favour of his wife/the respondent herein and after her lifetime, the absolute interest in favour of his son/the petitioner herein. The Will has come into force after the demise of the testator and hence, the petitioner had come out with this petition for seeking Letters of Administration.

3. Since the petitioner is said to be in abroad, he has given power of attorney in favour of his mother/the respondent herein to depose evidence on his behalf. Hence the mother of the petitioner, who is the respondent has been examined as PW.1 and Exs.P1 to P9 were marked.



O.P.No.245 of 2022

WEB COPY

4. The Power of Attorney executed by the petitioner in favour of his mother has been marked as Ex.P1. It is stated that the power of attorney has been executed by the petitioner while he was in India during the relevant point of time. The Will has been marked as Ex.P2 and on perusal of the Will, it is seen that the testator has given life interest in favour of the respondent and thereafter, absolute interest in favour of the petitioner herein. The death certificate of the testator Venkata Dilip Kumar has been marked as Ex.P3. The legal heir certificate of the Venkata Dilip Kumar has been marked as Ex.P4, which would show that the petitioner and the respondent are the only legal heirs of the deceased Venkata Dilip Kumar.

5. Both the attesting witnesses Mr.S.Balakrishnan and Mr.K.P.Venkatarama Krishnan have been examined as PWs-2 & 3. They have stated in their evidence that the testator had executed the Will dated 01.06.2019 in their presence. They affixed their signatures as attestors to the Will. It is further stated that the testator was seen to be in sound state of mind at the time when the Will was executed.



O.P.No.245 of 2022

WEB COPY

6. The paper publications issued in one issue of Tamil daily "Dina Kural" dated 03.03.2023 and another one in English daily "Trinity Mirror" dated 10.03.2023 did not attract any objectors.

7. With the evidence of PWs.2 & 3, the respondent had proved 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 attestors, the Will has also been proved to be true in accordance with Section 68 of the Indian Evidence Act. Hence, the respondent is entitled to the relief claimed as prayed for.

8. Accordingly, this Original Petition is allowed by granting Letter of Administration to the respondent in respect of the last Will and Testament of late Mr.Venkata Dilip Kumar. The respondent 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 respondent is further directed to file an inventory of assets and statement of accounts within a period of six months and one year, respectively.

11.09.2023

kmi



O.P.No.245 of 2022

APPENDIX

Petitioner side witness:

P.W.1 – Mrs.Usha Dilip

P.W.2 - Mr.S.Balakrishnan

P.W.3 – Mr.K.P.Venkatarama Krishnan

Documents marked by P.W.1:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Original General power of attorney dated 19.12.2022 executed by the petitioner in my favour.
Ex.P2	Original last Will dated 01.06.2019 executed by Mr.Venkata Dilip Kumar.
Ex.P3	Computer generated death certificate of Mr.Venkata Dilip Kumar.
Ex.P4	Computer generated legal heir certificate of Mr.Venkata Dilip Kumar.
Ex.P5	Print out of the guideline value.
Ex.P6	The photocopy of the front page of SBI State Bank of India Pass book bearing account No.33458089698 in respect of Mr.Venkata Dilip Kumar (HUF) (Compared with the original).
Ex.P7	Affidavit of assets showing the net value of the estate as Rs.7,00,00,000/-.
Ex.P8	The copy of the paper publication effected in Tamil daily 'Dina Kural' dated 03.03.2023.
Ex.P9	The copy of paper Publication effected in English daily 'Trinity Mirror' dated 10.03.2023



WEB COPY



O.P.No.245 of 2022

R.N.MANJULA, J.
kmi

O.P.No. 245 of 2022

11.09.2023