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O.P.No.717 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 31.03.2023

Delivered on: 05.06.2023

CORAM:

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

O.P.No.717 of 2019

1.Dillibai

2.P.Hemachandra Babu

3.P.Gopinathan

4.P.Mohan Kumar

...Petitioners

Prayer: Original Petition filed under Section 218 & 278 of Indian Succession Act r/w. Order XXV Rule 5 of O.S.Rules, to grant Letters of Administration of the estate of the deceased Vedha Valliammal.

For Petitioners : Mr.P.Kamarasu

ORDER

This application has been filed seeking Letters of Administration of the estate of the deceased Vedha Valliammal.



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2.The case of the petitioners is that the properties given in the schedule to the petition had originally belonged to the deceased Vedha Valliammal whose husband Padmanaban had predeceased her and that there are no issues to them. The petitioners are the sons and daughters of one S.D.Parasuram who is the elder brother of the deceased Vedha Valliammal.

3.They would submit that the deceased Vedha Valliammal had mortgaged the schedule 'A' property in favour of their father S.D.Parasuram by a Registered Mortgage Deed dated 17.09.1970 and that she had also not redeemed the mortgage prior to her death. The petitioners are being only the legal heirs as the daughters and sons of the elder brother of the deceased Vedha Valliammal are entitled to grant a Letters of Administration for administering the property.

4.The first petitioner and the fourth petitioner have examined themselves as PW1 and PW2. It is pertinent to note that Exs.P1, P2 & P3 are the Sale Deeds by



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which the deceased Vedha Valliammal had purchased the properties and the Mortgage Deed executed by the deceased Vedha Valliammal in favour of S.D.Parasuram has been claimed to have been misplaced. Even though, an averment is made in the petition and also stated in their evidence and to the effect that a complaint had been lodged in the Police Station and no details of any complaint had been produced before this Court as evidence and also a non-traceable certificate has been failed to be produced as evidence.

5.That apart, the petitioners have also not produced any Encumbrance Certificate with regard to the schedule mentioned property to substantiate the property has not been dealt with by the deceased Vedha Valliammal during her lifetime. There is also no evidence produced by the petitioners evidencing the relationship of the deceased Vedha Valliammal and S.D.Parasuram. The petitioners have not also produced any independent evidence to substantiate their claim. Further there is no pleading or evidence that there are no other legal heirs except late S.D.Parasuram.



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6.The aforesaid factors do not weigh in favour of the petitioners since I am of the view that the petitioners have failed to provide satisfactory evidence that they are the only surviving legal heirs of the deceased Vedha Valliammal.

7.In fine, the Original Petition is dismissed. However, there shall be no order as to costs.

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Index: yes/no
Speaking order:yes/no
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Petitioners witness:

P.W.1 – Mrs.Dillibai

P.W.2 – Mr.P.Mohan Kumar

Documents exhibited by the petitioners:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Certified copy of Sale Deed dated 29.08.1936
Ex.P2	Certified copy of Sale Deed dated 26.05.1965
Ex.P3	Certified copy of Mortgage Deed dated 17.09.1970
Ex.P4	Computer generated Death Certificate of P.Padmanaban
Ex.P5	Computer generated Death Certificate of P.Vedha Valliammal
Ex.P6	Computer generated Death Certificate of Parasuram S.D
Ex.P7	Original Legal Heir Certificate of S.D.Parasuram
Ex.P8	Photocopy of Aadhar card of Delhibai Thirunavukarasu
Ex.P9	Photocopy of Aadhar card of Hemachandrababu Parasuram
Ex.P10	Photocopy of Aadhar card of P.Gopinathan
Ex.P11	Photocopy of Aadhar card of Mohankumar
Ex.P12	Affidavit of assets showing the net value of the estate as Rs.62,00,000/-
Ex.P13	Paper Publication effected in Tamil Daily "Makkal Kural" dated 23.01.2020
Ex.P14	Paper Publication effected in English Daily "Trinity Mirror" dated 30.01.2020

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Pre-delivery Order in
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