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O.P.No.348 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2023

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No. 348 of 2021

V. Vasudevan

... Petitioner

Vs.

1.Saroja Bai

2.Lakshmi Bai

... Respondents

PRAYER: Original Petition is filed under Sections 232 & 276 of the Indian Succession Act, 1925 r/w. Order XXV, Rule 5 of Original Side Rules seeking for grant of Letters of Administration with the Will and codicil to the Will annexed may be granted to the petitioner as nephew and legatee under the codicil to Will of the deceased A.S. Munusamy Sha having effect limited to the State of Tamil Nadu.

For Petitioner : Mr. N. Chandrasekar
for Mr. N. Nagu Sah

ORDER

This Original Petition has been filed under Section 232 & 276 of the Indian Succession Act, 1925 r/s Order XXV, Rule-5 of Original Side Rules seeking for grant of Letters of Administration with the Will and Codicil to



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the Will annexed of the properties and credit of the deceased to the petitioner as the nephew / beneficiary under the last Will and testament of the said deceased A.S.Munusamy having effect limited to the State of Tamil Nadu.

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

The petition mentioned property is an immovable property which belongs to one A.S.Munusamy Sha who died on 18.09.2008. During his lifetime, he executed a registered Will dated 04.10.2004 along with the Codicil on 25.10.2004. Despite the Will has been executed in respect of certain properties, the properties involved in the Will is said to have been disclosed by the testator himself during his lifetime. Hence, the petitioner has filed this petition seeking Letters of Administration in respect of the properties involved in the Codicil alone.

3. The petitioner examined himself as P.W.1 and Exhibits P1 to P7 were marked.

4. According to the evidence of the petitioner, the testator by name A.S. Munusamy Sha remained unmarried. He did not have any Class I legal heirs of his own. His parents, viz., A.C. Subramani Sah and Muniamma Bai



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also predeceased him. The petitioner is said to be the sister's son of the deceased.

5. From Ex.P1 / Death certificate, it is seen that A.S. Munusamy Sha died on 18.09.2008. The Will and the Codicil have been marked as Ex.P3 and Ex.P4. The paper publication issued in one issue of "Makkal Kural" on 24.08.2022 and in one issue of "Trinity Mirror" on 01.09.2022 did not attract any objectors.

6. One of the attestors of the Codicil dated 25.10.2004 viz., K.P.S.Nagarajan was examined as P.W.2. He has stated in his evidence that himself and one A.S. Kuppu Bai are present at the time when the said A.S. Munusamy Sha executed the Codicil and they have seen him signing the Codicil in their presence. Further, he has stated that himself and the other attesting witness A.S.Kuppu Bai have also subscribed their signatures as attestors in the Codicil. He further stated that the testator was in a sound disposing state of mind at the time when the Will was executed.

6. Thus, the evidence on record would prove that the Will has been



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executed in terms of Section 63(c) of the Indian Succession Act and its genuineness has been proved in accordance with Section 68 of the Indian Evidence Act. The respondents have not chosen to cross examine any of the petitioner's side witnesses. The evidence of the petitioner's side witnesses remained unchallenged. Since the petitioner has proved his claim, this Original Petition has to be allowed.

7. Hence, this Original Petition is allowed by granting Letters of Administration to the petitioner with the Will dated 04.10.2004 along with the Codicil dated 25.10.2004 of A.S.Munusamy Sha annexed thereto. Such Letters of Administration shall have effect limited to 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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APPENDIX

Petitioner's witness:

P.W.1 – Mr.V.Vasudevan

P.W.2 – Mr. K.P.S.Nagarajan

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
P1	The computer generated death certificate of Mr.A.S.Munusamy Sha.
P2	The consent affidavit of the first respondent given to the petitioner, who is dead not (marked subject to admissibility, proof and relevancy).
P3	The original registered Will dated 04.10.2004 executed by Mr.A.S.Munusamy Sha registered as document No.69 of 2004 before the SRO, Kancheepuram.
P4	The original registered Codicil dated 25.10.2004 executed by Mr.A.S.Munusamy Sha registered as document No.77 of 2004 before the SRO, Kancheepuram.
P5	The affidavit of assets showing the net value of estate as Rs.10,00,000/-.
P6	The copy of paper publication effected in one issue of Tamil daily “Makkal Kural” dated 24.08.2022.
P7	The copy of paper publication effected in one issue of English daily “Trinity Mirrior” dated 01.09.2022.

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