



O.P.No.390 of 2021

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N.SATHISH KUMAR, J.

This Petition has been filed under Sections 218 and 278 of the Indian Succession Act read with Order XXV Rule 5 of the Original Side Rules, seeking to grant of Letters of Administration in respect of the estate of the deceased S.Girija.

2. This petition has been filed for grant of Letters Administration in respect of the estate of the deceased S.Girija. It is the case of the petitioners that the schedule property was originally owned by one Sampath. He has purchased the property on 20.02.1995. Thereafter, he has settled the property in favour of his wife Girija on 09.06.2004. The said Sampath had Girija had no issues. The said Sampath died on 31.01.2006. Girija also died on 19.10.2015. The parents of Sampath predeceased him. The Petitioners are the wife and daughter of the brother of the said Sampath. The respondent is wife of another brother of the said Sampath. Hence, the



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petitioners and the respondent being the class II legal heirs of the deceased Girija, There is no other legal heir to be impleaded in this petition. The deceased died intestate and though due and diligent search has been made for a Will, nothing has been found. The amount of assets which is likely to come to the petitioners hands does not exceed in the aggregate sum of Rs.56,00,000/- and the net amount of the said assets after deducting all the items, which the petitioners are by law allowed to deduct is only of the value of Rs.56,00,000/-. The petitioners undertakes to duly administer the property and credits of the deceased S.Girija and to make a full and true inventory thereof and exhibit the same to the Court within six months from the date of grant of Letters of Administration to the petitioners and also render a true account of the said property and credits within one year from the said date.

3. The first petitioner has been examined as P.W.1 and Ex.P.1 to Ex.P.15 marked. The respondent has been examined as R.W.1 and Ex.R.1 has been marked.



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4. P.W.1 in her evidence had narrated the averments made in the petition stating that the petitioners have filed this petition for grant of Letters of Administration in their favour in respect of the estate of the deceased S.Girija. The learned counsel appearing for the petitioner submitted that since the property is a separate property of the Hindu family, the succession is governed by Section 15 of the Hindu succession Act. Therefore, according to the petitioners, they are alone entitled for Letters of Administration in their favour.

5. I have perused entire materials. It is not in dispute that the property has been originally purchased one Sampath, who is none other than the husband of the deceased Girija. It is not in dispute that the said Sampath settled the property in favour of the deceased Girija. To substantiate the same Ex.P.16 settlement deed dated 09.06.2004 has been filed. Therefore, the deceased Girija is the owner of the property. It is also not disputed by both sides that the said Sampath and Girija had no issues. The petitioners



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and the respondent are the class II legal heirs of the deceased Girija. This fact is also not disputed.

6. It is relevant to extract Section 15 of the Hindu Succession Act which reads as follows :

“15. (1) The property of a female Hindu dying intestate shall devolve according to the rules set out in section 16,—

(a) firstly, upon the sons and daughters (including the children of any predeceased son or daughter) and the husband;

(b) secondly, upon the heirs of the husband;

(c) thirdly, upon the mother and father;

(d) fourthly, upon the heirs of the father; and

(e) lastly, upon the heirs of the mother.

(2) Notwithstanding anything contained in sub-section (1),— (a) any property inherited by a female Hindu from her father or mother shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre-



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deceased son or daughter) not upon the other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the fathers; and

(b) any property inherited by a female Hindu from her husband or from her father-in-law shall devolve, in the absence of any son or daughter of the deceased (including the children of any predeceased son or daughter) not upon the other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the husband.

7. A careful perusal of the above section makes it clear that in the absence of any son or daughter, the property will devolve on the legal heirs of the husband. Similarly as per Section 16 of the Hindu Succession Act the first entry will exclude the second entry. Similarly, the second entry will exclude the third entry. In the absence of the first entry, the persons referred in section 15[b] will be entitled to succeed, excluding the other entries. In such view of the matter, the petitioners and the respondent being class II



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legal heirs of the deceased Girija are entitled for Letters of Administration jointly.

8. Accordingly, this petition is allowed. Issue Letters of Administration in favour of the petitioners and the respondent. The petitioners and the respondent are directed to duly administer the properties and credits of the deceased more fully described in the schedule. The petitioners and respondent are also directed to execute a security bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) in favour of the Assistant Registrar (O.S.II), High Court, Madras. The petitioners and respondent are further directed to render true and correct accounts once in a year.

28.02.2024

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