



O.P.No.273 of 2006

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02.12.2024

Coram:

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Original Petition No.273 of 2006

1. R.Sundaresan (deceased).
2. S.Thirumurugan.
3. S.Jayakumari.
4. S.Muralidaran.
5. S.Karunambigai.

... Petitioners

versus

1. Kamalam alias Nagarathinam Ammal.
2. R.Thirunavukarasu.
3. P.Vasantha.

... Respondents

Prayer: Original Petition has been filed under Section 232 and 276 of Indian Succession Act read with Order XXI Rule 5 of Original Side Rules prays that Letters of Administration with the Will annexed may be granted to the petitioner as one of the legatees under the Will of the said deceased having effect limited to the State of Tamil Nadu.

For Petitioners : Mr.G.Nagarajan

For Respondents : No respondent



O.P.No.273 of 2006

ORDER

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This petition is filed under Sections 232 & 276 of Indian Succession Act, read with Order XXV, Rule 5 of Original Side Rules, in respect of the last will of late Rathinasabapathi, who died in Chennai leaving behind his wife and three children, namely, R.Thirunavukarasu, R.Vasanth and R.Sundaresan.

2. During his lifetime, Rathinasabapathi executed a will dated 19.08.1986, bequeathing the property mentioned in the *Will* to his elder son R.Sundaresan and thereafter, to devolve upon his grandson, Thirumurugan. The said Rathina Sabapathi expired on 10.07.1999. As a beneficiary under the Will, his son R.Sundaresan filed a petition seeking Letters of Administration.

3. Pending petition, R.Sundaresan died and hence his legal heirs, namely, Jayakumari (wife), Muralidharan S/o.Sundaresan, Thirumurugan S/o.Sundaresan and Karunambigai D/o.R.Sundaresan were brought on record in place of Sundaresan. Kamalam @ Nagarathinam ammal/1st respondent is an estranged wife of Rathinasabapathi, who also later died. The 2nd and 3rd respondents/R.Thirunavukarasu and R.Vasanth, the son and daughter of Rathinasabapathi. The *Will* of Rathinasabapathi was attested by two witnesses by



O.P.No.273 of 2006

name, S.Padmanabhan and S.Muthiah and same was registered at Sub-Registrar Office, T.Nagar, Chennai. Under the Will, S.Thirumurugan S/o.Late Sundaresan is entitled to get the property.

4. To prove the due execution of the Will, S.Jayakumari daughter-in-law of testator wife of R.Sundaresan, mother of the beneficiary Thirumurugan had deposed and through her following exhibits were marked.

<i>Exhibits</i>	<i>Documents</i>
Ex.P.1	Original Will dated 19.08.1996 executed by Mr.S.Rathinasabapathy.
Ex.P.2	Original death certificate of Mr.S.Rathinasabapathy.
Ex.P.3	Photocopy of my Aadhaar Card
Ex.P.4	Copy of the paper publication effected in one issue of Tamil daily “Makkal Kural” dated 07.03.2007.
Ex.P.5	Copy of the paper publication effected in one issue of English daily “News Today” dated 28.02.2007.
Ex.P.6	Computer generated death certificate of Mr.R.Sundaresan.
Ex.P.7	Original legal heir ship certificate of Mr.R.Sundaresan.
Ex.P.8	Computer generated legal heir ship certificate of Mr.R.Rathinasabapathi.
Ex.P.9	Certificate under Section 65B of the Indian Evidence Act, 1872.
Ex.P.10	Photocopy of my Aadhaar Card (Mr.S.Padmanabhan)

5. One of the attesting witness S.Padmanabham been examined as P.W.2 and he, in his testimony had stated about the execution of the Will (Ex.P.1)



O.P.No.273 of 2006

by Rathinasabapathi on 19.08.1989 in his presence and in the presence of Mr.S.Muthiah the other attesting witness. He has spoken about the health and mental condition of the testator. The Aadhaar card of the attesting witness P.W.1 is marked as Ex.P.10.

6. From the above said oral and documentary evidence, the execution of the Will marked as Ex.P.1 been duly proved through the attesting witness. The son and daughter of Rathinasabapathi, who are arrayed as respondents 2 & 3, have given their consent affidavit for the grant of Letters of Administration in favour of Thirumurugan. The paper publication effected inviting objections did not evoked any response. The legal heir certificate of Rathinasabapathi marked as Ex.P.8, discloses that he had the following persons as 1st class legal heirs, R.Thirunavukarasu (son), R.Vasanth (daughter), Kamalam @ Nagarathinam ammal (wife) and R.Sundaresan (son). Wherein, Kamalam @ Nagarathinam ammal (wife) and R.Sundaresan (son) pre-deceased Rathinasabapathi. R.Sundaresan the pre-deceased son of Rathinasabapathi has left behind S.Jayakumari, S.Muralidharan, S.Thirumurugan and S.Karunambigai who are the petitioners herein.



O.P.No.273 of 2006

7. Thus, the Will executed and registered at SRO been duly proved through attesting witness P.W.2. The relationship between the petitioners and the testator proved through the legal heir certificate. The 2nd petitioner/Thirumurugan has given an undertaking that he will duly administer the property and credits of the deceased, Rathinasabapathi, first pay his debts and then to the legatees and render full and true inventory of the assets within six months.

8. In view of the above said undertaking, the Original Petition is allowed and Letters of Administration to be issued in accordance with Rules. Such Letters of Administration shall have effect throughout the State of Tamil Nadu. The second 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-II) of this Court. The second petitioner is further directed to file an inventory of assets and statement of accounts within a period of six months and one year respectively.

02.12.2024

Index : Yes/No.
Internet : Yes/No.
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O.P.No.273 of 2006

Petitioner's witness:

P.W.1 – S.Jayakumari.

P.W.2 – S.Padmanabham

Documents marked:

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O.P.No.273 of 2006

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Original Petition No.273 of 2006

02.12.2024