



O.P.No.523 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on : 06.12.2024

Pronounced on: 11 .12.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Original Petition No.523 of 2023

E.Shiv Karthik,
S/o.Late Elangovan,
No.59, 8th Cross Street,
Palkalai Nagar, Palavakkam,
Chennai – 600 041.

...Petitioner

/versus/

1. Vinayaga Selvi,
W/o. Late Elangovan,
No. 59, 8th Cross Street Palkalai Nagar,
Palavakkam,
Chennai - 600 041.

2. Santhoshi,
W/o. Mr.S.Balakrishnan,
D/o. Late Elangovan

Represented by her Power Agent
Mr. E. Shiv Karthik, S/o.
Late Elangovan No.59, 8th Cross Street Palkalai Nagar, Palavakkam,
Chennai-600 041.

... Respondents

PRAYER: Original Petition has been filed under Section 232 and 276 of the Indian Succession Act 1925 read with Order 39 of 1925 read with Order XXV Rule 5 of Original Side Rules to grant Letter of Administration with the Will



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dated 10.04.1989 annexed may be granted to the petitioner as legal heir of the beneficiary under the Will of the said deceased, having effect limited throughout the State of Tamil Nadu.

For Petitioner : Mr.T.Sivagnanasambandan
For R1 : Ms.K.Sudha Selvarasi
For R2 : No appearance
(consent affidavit filed)

ORDER

This petition has been filed under Sections 232 and 276 of Indian Succession Act, read with Order XXV, Rule 5 of Original Side Rules for grant of Letter of Administration in the matter of last will of Late A.Sakunthala W/o.Annamalai Mudaliar.

2. The petitioner is the son of Late Elangovan. The first respondent is the wife of Late Elangovan. The second respondent is the daughter of Late Elangovan. A.Sakunthala and her husband Annamalai had no issues. Hence, they adopted Elangovan, the brother's son of Sakunthala on 10th September 1958. The adoption deed was duly registered as Document



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No:29/1958, dated 13/09/1958. During her lifetime, Sakunthala had purchased a residential house at Chennai and agricultural land at Kullithigai Village, near Ambur, the then North Arcot District. She executed a registered will dated 10/04/1989 appointing her adopted son Elangovan as the executor and the residuary legatee. This was her last will and she died on 09/07/1998.

3. The Executor, Elangovan did not take any steps to get the will probated. He died intestate on 22/07/2020, leaving behind his wife and two children. The petition for Letters of Administration has been filed by the son of Elangovan under Section 232(2) of Indian Succession Act. His mother, Vinayaga Selvi, is the first respondent. She has given her consent for the grant of Letters of Administration in favour of her son(the petitioner herein). His sister, Santhoshi has given a power of attorney in favour of the petitioner and also filed a consent affidavit.

4. To prove the execution of the will and the right to seek letters of Administration, the petitioner/E.Shiv Karthik had graced the witness box and marked 13 documents as Ex.P-1 to Ex.P-13. Since both the attesting witnesses to the Will of Sakunthala had died, to prove the signature of one of the attesting witnesses to the Will, namely, Vedagiri, his wife Sambavi was examined as



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P.W-2. The death certificate of Vedagiri and the Aadhar card of Sambavi were marked as Ex.P-7 and Ex.P-15.

<i>Exhibits</i>	<i>Documents</i>
Ex.P.1	Original Will dated 10.04.1989 executed by Mrs.A.Sakuntala.
Ex.P.2	Photocopy of the sale deed dated 05.07.1979 executed in favour of Mrs.A.Sakunthala.
Ex.P.3	Photocopy of the sale deed dated 06.06.1960 executed in favour of Mrs.A.Sakunthala Amma.
Ex.P.4	Photocopy of the general power of attorney dated 24.01.2023 given by second respondent in my favour.
Ex.P.5	Death certificate of Mrs.A.Sakunthala.
Ex.P.6	Legal heirship certificate of Mrs.A.Sakunthala
Ex.P.7	Computer generated death certificate of Mr.V.Vedagiri who is one of the attesting witness in Ex.P1 Will.
Ex.P.8	Affidavit of assets showing the net value of the estate as Rs.50,00,000/-.
Ex.P.9	Copy of the paper publication effected in one issue of Tamil Daily “Makkal Kural” dated 25.01.2024.
Ex.P.10	Copy of the paper publication effected in one issue of English Daily “Trinity Mirror” dated 02.02.2024.
Ex.P.11	Photocopy of the adoption deed dated 10.09.1958.
Ex.P.12	Computer generated death certificate of Mr.V.A.Elangovan.
Ex.P.13	Computer generated legal heir certificate of Mr.V.A.Elangovan.
Ex.P.14	Photocopy of the legal heir ship certificate of my husband Mr.V.Vedagiri.
Ex.P.15	Photocopy of my Aadhaar Card (Sambavi)

5. The Will of Sakunthala is marked as Ex.P-1. In that will, she has bequeathed the properties to her adopted son Elangovan. Ex.P-2 and Ex.P-3 are copies of the title deed of her properties. Ex.P-11 is the deed of adoption, which proves that Elangovan, the brother's son of Sakunthala got adopted by



Sakunthala and her husband, Annamalai, when he was 3 years old and was brought up by them. The execution of the Will of Sakunthala is proved by examining P.W-2, who is the wife of Vedagiri, one of the attesting witness. Ex.P-7 is the death certificate of Vedagiri. The said vedagiri died on 13/12/2011. His wife identified the signature of Vedagiri in Ex.P-1, Will. Thus, through P.W-2, the statutory requirements under Section 68 of BSA and Section 69 of the Indian Evidence Act stands satisfied.

6. The death of the testatrix, Sakunthala and the Executor Elangovan are proved through the respective death certificates marked as Ex.P-5 and Ex.P-12. The legal heir certificate issued for Elangovan is marked as Ex.P-13. His death certificate mentions the name of the petitioner as his son, the first respondent as his wife and the second respondent as his daughter. The power of attorney executed by the second respondent in favour of the petitioner is marked as Ex P-4. Through these documents, the necessary evidence required for the grant of Letters of Administration in favour of the petitioner, Shiv Karthik is duly complied.

7. The petitioner has given an undertaking that he will duly administer the property and credits of the deceased A.Sakunthala by paying her



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debts first and then the legatees and make a true and full inventory to the Court within six months, from the date of grant of Letters of Administration in his favour and he will render true accounts of the said property within the period mentioned.

8. In view of the facts stated above, the petition for grant of Letters of Administration in favour of the petitioner/Shiv Karthik in the matter of last Will and testament, dated 10/04/1989 of the Late.Sakunthala, is hereby allowed.

8.1. The petitioner/Shiv Karthik is directed to make true and full inventory of the property within six months and shall render true accounts of the property within a year, from the date of grant of Letters of Administration.

8.2. The petitioner shall 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.

9. Accordingly, this Original Petition is allowed.



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Index :Yes/No.

Internet :Yes/No.

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Petitioner's witness:

P.W.1 – E.Shiv Karthik

P.W.2 – V.Sambavi

Documents marked:

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Dr.G.JAYACHANDRAN,J.

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Pre-delivery order made in
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