



TOS.No.71 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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|                                    |                                      |
|------------------------------------|--------------------------------------|
| Judgment Reserved on<br>22.04.2024 | Judgment Pronounced on<br>26.04.2024 |
|------------------------------------|--------------------------------------|

CORAM:

**THE HON'BLE MR.JUSTICE P.B.BALAJI**

**TOS.No.71 of 2013**  
**(O.P.No.774 of 2010)**

1.Sundaramurthy (Deceased)  
2.Malarkodi  
3.Leelavathi  
4.Kalaivani  
5.Srilekha

.. Plaintiffs

[Plaintiffs 2 to 5 brought on record as legal representatives of the deceased plaintiff by an amendment carried out as per order dated 30.11.2023 in A.No.6278 of 2023 time extended by order dated 08.12.2023]

Vs.

Padmavathi

.. Defendant

**Prayer:** Original Petition has been filed under Sections 222 and 276 of the Indian Succession Act of XXXIX of 1925 for grant of Letters of Administration with the Will dated 07.02.1991 annexed to the petitioner as the son/one of the legatees under the Will of the said deceased having effect limited to the State of Tamil Nadu.

For Plaintiffs : Mr.V.J.Suresh Kumar



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for Mr.N.Ramiah S.Sugendran

For Defendant : Mr.S.Balasubramaniam  
(Exparte on 19.06.2023)

### **J U D G M E N T**

The Original Petition has been filed for grant of Letters of Administration with the Will dated 07.02.1991, executed by Yasodhammal, annexed.

2.The Original Petition was initially filed by one of the son of the testatrix, by name Sundaramurthy. The Will was objected by his sister (i.e.,) daughter of the deceased Yasodhammal, who had filed a Caveat. However, despite filing a Caveat, the said daughter of the deceased did not even come forward to file any written statement and thereafter, evidence was recorded in the Testamentary Original Suit.

3.Pending the Testamentary Original Suit, the said Sundaramurthy died and his wife and daughters were brought on record as plaintiffs 2 to 5.

4.Before the Additional Master IV, the 3<sup>rd</sup> plaintiff, namely



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Leelavathy was examined as P.W.1 and Ex.P1 to Ex.P8 were marked as exhibits on the side of the plaintiffs. Ex.P1 is the original Will executed by Yasodhammal; Ex.P2 is the original Death Certificate of Yasodhammal; Ex.P3 is the original Legal Heir Certificate of Yasodhammal; Ex.P4 is the certified copy of the Settlement Deed; Ex.P5 is the original affidavit of attesting witness; Ex.P6 is the affidavit of assets; Ex.P7 is the computer generated copy of the Death Certificate of G.Sundaramurthy and Ex.P8 is the computer generated copy of the Legal Heir Certificate of Sundaramurthy.

5.M.Paranthaman was examined as P.W.2 and he is a third party to the Testamentary Original Suit proceedings. However, he has stated that he is a close family friend of both the testatrix as well as one of the attesting witness, by name M.Subramani. He has deposed that he knows the testatrix and the attesting witness, M.Subramani from 1985 onwards, he being their neighbours. He has identified the signature of the testatrix, Yasodhammal in the Will dated 07.02.1991 and also the signature of the attesting witness, M.Subramani.

6.Though both the attesting witnesses have not been



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examined, it is stated that they are not alive and even though M.Subramani had given his affidavit of attesting witness at the time of filing of the Original Petition, he could be examined since he has passed away in the interregnum period. This necessitated examination of a third party, viz., P.W.2.

7. On assessing the evidence of P.W.1 and P.W.2, I am satisfied that the plaintiffs have proved due execution and attestation of the Will dated 07.02.1991. Hence, the plaintiffs are entitled for issuance of Letters of Administration in their favour.

8. In the result:

(i) The suit is decreed and the Letters of Administration shall be issued in favour of the plaintiffs with the Will dated 07.02.1991, annexed.

(ii) The plaintiffs are directed to duly administer the properties and credits of the deceased more fully described in the affidavit of assets.

(iii) The plaintiffs shall execute an indemnity 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.

(iv) The plaintiffs are further directed to make a full and true



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inventory of the property and credits of the deceased testatrix, Yasodhammal to be made and the same be exhibited before this Court, within six months from the date of grant of Letters of Administration to them and also to render a true account of the property and credits of the testatrix, within one year from the date of obtaining the grant.

(v) There shall be no order as to costs.

26.04.2023

Index : Yes/No  
Speaking/Non-speaking order  
ata

**Witnesses examined on the side of the plaintiffs:**

P.W.1. - B.Leelavathi

P.W.2 - M.Paranthaman

**Exhibits produced on the side of the plaintiffs:**

| S.No. | Exhibits | Date       | Description                                                      |
|-------|----------|------------|------------------------------------------------------------------|
| 1.    | P-1      | 07.02.1991 | The original Will dated 07.02.1991 executed by Yasodhammal       |
| 2.    | P-2      | 24.10.2005 | The original Death Certificate of Yasodhammal                    |
| 3.    | P-3      | 15.03.2006 | The original Legal Heir Certificate of Yasodhammal               |
| 4.    | P-4      | 13.06.1949 | The certified copy of the Settlement Deed in Doc.No.1161 of 1949 |
| 5.    | P-5      | 20.12.2006 | The original affidavit of attesting witness                      |
| 6.    | P-6      | 20.12.2006 | The affidavit of assets                                          |



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|    |     |            |                                                                              |
|----|-----|------------|------------------------------------------------------------------------------|
| 7. | P-7 | 17.05.2021 | The computer generated copy of the Death Certificate of G.Sundaramurthy      |
| 8  | P-8 | 30.08.2021 | The computer generated copy of the Legal Heir certificate of G.Sundaramurthy |

**Witnesses on the side of the defendant:**

Nil.

**Documents on the side of the defendant:**

Nil.

**26.04.2024**

**P.B.BALAJI,J.**  
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Pre-delivery judgment made in  
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