



WEB COPY



O.P. No.710 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2024

CORAM

THE HONOURABLE MS.JUSTICE C.V.KARTHIKEYAN

O.P. No.710 of 2023

1.A.Kanniappan

2.K.Santhiya Rani

3.K.Saravanan (minor)

4.K.Sathasivam (minor)

... Petitioners

*(Minor petitioners 3 and 4 are rep. by their father
and natural guardian, the 1st petitioner/A.Kanniappan)*

PRAYER: Original Petition filed under Section 276 of the Indian Succession Act, 1925, read with Order XXV Rule 5 of O.S. Rules to grant Letters of Administration of the Will annexed properties and credits to have effect throughout the state of Tamil Nadu to the petitioners in common form.

For Petitioners : Mr. M.Vijay Anand

ORDER

The petitioners seek Letters of Administration with respect to a Will dated 02.05.1971 executed by the maternal great grandfather of the petitioners, Kannappa Thambiran, who died on 26.08.1976.



O.P. No.710 of 2023

2. With respect to one of the suit schedule properties in the said Will, he had given a life interest to his wife Pattammal, who had also died long back.

The date is not known to the petitioners. The maternal grandmother/daughter of Kannappa Thambiran and Pattammal, by name D.Sakunthala was given a right to enjoy one of the properties and she died on 26.05.1997. She left behind two sons and one daughter. The daughter is the mother of the petitioners. The two sons had died on 21.08.1997 and 06.06.2005 respectively. They did not leave behind any legal heirs. Under the Will, the petitioners are today the sole beneficiaries. They also had a brother who had also died as a bachelor in a motor vehicle accident.

3. It is stated by the learned counsel for the petitioners that there are no other surviving legal heirs who could be impleaded as respondents if at all such a necessity is sought since nobody is there who has a caveatable interest with respect to grant of Letters of Administration to the Will. It is under those circumstances that this petition has been filed seeking Letters of Administration with respect to the Will dated 02.05.1971 of late Kannappa Thambiran, the maternal great grandfather of the petitioners.

4. With respect to the delay in filing the petition, it is stated that since



O.P. No.710 of 2023

the great grandmother and the grand mother both had either life interest or a right to enjoy the property, the petitioners were not in a position to file the application till their lifetime. The mother of the petitioners died on 25.01.2021 and it is under those circumstances that this petition has been filed seeking Letters of Administration.

5. During the evidence, the 1st petitioner, A.Kanniappan was examined as P.W.1 and he marked Ex.P4 -certified copy of the Will dated 02.05.1971 and Exs.P5, P7, P9, P10, P13, P22 and P27, death certificates of the other family members. The relevant legal heirship certificates had also been produced as documents. He filed additional proof affidavit wherein he had stated that he was 9 years when the Will was executed and registered on 26.05.1971 therefore he was not able to, inspite of strenuous efforts taken, to produce any of the attesting witnesses. It is stated that the Will had been executed more than 50 years back. However, taking all the factors into consideration and the fact that it is clear that the petitioners have not suppressed any material facts, the Original Petition stands allowed and Letters of Administration to be issued in accordance with rules. Such Letters of Administration shall have effect throughout the State of Tamilnadu. The petitioners are directed to execute a security bond for a sum



O.P. No.710 of 2023

of Rs.25,000/- (Rupees Twenty Five Thousand only) in the name of the Assistant Registrar (Original Side) of this Court. The petitioners are further directed to file an inventory of assets and statement of accounts within a period of six months and one year, respectively.

08.04.2024

Index :Yes/No
gsa

APPENDIX

Petitioner's witness:

P.W.1 – Mr.A.Kanniappan

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
P1	Certified copy of the release deed dated 02.05.1961.
P2	Certified copy of the mortgage deed dated 22.04.1968.
P3	Certified copy of the lease deed between Mr.Kannappa Tambiran and K.Durai dated 15.03.1969.
P4	Certified copy of the Will dated 02.05.1971 executed by Mr.Kannappa Tambiran (witness states that the original Will has been lost by his wife and steps were taken out by effecting paper publication in Tamil and English dailies and complaint was given before Inspector of Police, F5, Choolaimedu Police Station, Chennai – 94 and obtained non traceable certificate. This document is marked subject to its admissibility, proof and relevancy).
P5	The Photocopy of the death certificate of Mr.Kannappa Thambiran (compared with the original).
P6	Certified copy of the mortgage deed dated 30.10.1995.



WEB COPY



O.P. No.710 of 2023

Exhibits	Documents
P7	Photocopy of the death certificate of Mr.Durai (Compared with the original).
P8	Photocopy of the legal heirship certificate of Mr.Kannappa Thambiran (Compared with the original).
P9	Photocopy of the death certificate of Mr.D.Chitrarasu (compared with the original).
P10	The photocopy of the death certificate of Mr.D.Elango (compared with the original).
P11	Photocopy of my family card (compared with the original).
P12	Photocopy of my Aadhaar Card (compared with the original).
P13	Computer generated death certificate of Mrs.Sakunthala (compared with the original).
P14	Photocopy of the Aadhaar Card of the second petitioner (compared with the original).
P15	Photocopy of the Aadhaar Card of the third petitioner (compared with the original).
P16	Computer generated family card of Mrs.Valli.
P17	Copy of the paper publication effected in one issue of Tamil Daily "Makkal Kural" dated 29.01.2019 with regard to lost of the original Will dated 02.05.1971.
P18	Copy of the paper publication effected in one issue of English Daily "Trinity Mirror" dated 29.01.2019 with regard to lost of the original Will dated 02.05.1971.
P19	Copy of the petition given by my wife to the Inspector of Police, F5, Choolaimedu High Road, Chennai 94 with regard to lost of original Will.
P20	Non traceable certificate dated 06.02.2019 issued by the Inspector of Police, F5, Choolaimedu Police Station, Chennai 94 for the lost Will.
P21	Computer generated legal heir certificate of Mrs.Sakunthala.
P22	Computer generated death certificate of Mrs.Valli.
P23	Computer generated legal heir certificate of Mrs.Valli.
P24	Affidavit of assets showing the net value of the estate as Rs.5,00,00,000/-.
P25	Copy of the paper publication effected in one issue of Tamil Daily "Dina Thanthi" dated 14.12.2023.



O.P. No.710 of 2023

<i>Exhibits</i>	<i>Documents</i>
P26	Copy of the paper publication effected in one issue of English Daily “Trinity Mirror” dated 21.12.2023.
P27	Computer generated death certificate of Mr.Karthik.

12.04.2024

gsa



WEB COPY



O.P. No.710 of 2023

C.V.KARTHIKEYAN, J.

gsa

O.P. No.710 of 2023

12.04.2024