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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

T.O.S No.23 of 2020
(OP.No.1126 of 2018)

B.Kanniammal

... Plaintiff

Vs

1. Nirmala Vijayakumar(deceased)

2.D. Mohana Lakshmi

3.J. Rekha

4. V. Manjula

... Defendants

(Defendants 2 to 4 brought on record as legal heirs of deceased 1st defendant as per Order dated 28.10.2022 passed in A.No.3895/2022)

Prayer: Testamentary Original Suit filed under Sections 232 and 276 of the Indian Succession Act XXXIX of 1925 for the grant of Letters of Administration. As per order of this court dated 10.03.2020 in OP.No.1126 of 2018, the Original Petition has been converted into Testamentary Original Suit No.23 of 2020.

For Petitioner : M/s.P.B. Ramanujam

For Respondents : Ms. P. Suresh for D2 to D4
D1 Deceased

J U D G M E N T

The Testamentary Original Suit is filed for grant of Letters of Administration in respect of the last Will and Testament of the deceased S. Janardhanam.



2. The brief facts of the case of the plaintiff are as follows:

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Mr.S.Janardhanam died on 08.04.2018 at No.22, Sreenivasa Perumal Sannadhi, 1st street, Royapettah, Chennai 600 014. The writing hereunto shown to the petitioner and marked with Letter “A” is the last Will and Testament of the deceased S. Janardhanam, which was duly executed by him at the office of Joint Sub Registrar-I, Chennai Central, on 21.10.2016, in the presence of two witnesses,. The plaintiff is the sole legatee under the said Will. He also submits that the respondents are the nieces of the Testator and only surviving Class-2 legal heirs of the deceased. The plaintiff is the sole beneficiary under the provisions made by the deceased to the said Will dated 21.10.2016 and mentioned in the Will. No executor has been appointed in the said Will. The deceased S.Janardhanam died on 08.04.2018 leaving behind Nirmala Vijayakumar and Dhanalakshmi as his surviving legal heirs. The wife and mother of the Testator pre-deceased him. The deceased bequeathed his immovable property. The net amount of the assets after deducting all the items by law, is only of the value of Rs.60,00,000/-. The plaintiff duly undertakes to administer the property and credits of the deceased S. Janardhanam, any way concerning his Will by paying first his debts and the legacies therein



bequeathed and so far as the assets will extend and to make a full and true inventory thereof and exhibit the same in this court within six months from the date of grant of Letters of Administration with the Will annexed to the plaintiff.

3. In the written statement, filed by the Defendants, the genuineness and validity of the alleged Will are challenged, stating that it is a concocted document and hence, the Plaintiff is not entitled to any relief, as prayed for in this Testamentary Original Suit.

4. On the side of the Plaintiff, witnesses PW.1 and PW2 were examined and Ex.P1 and Ex.P6 were marked.

5. The plaintiff was examined as P.W.1 and she had narrated the averments made in the petition stating that she has filed the main original petition for the grant of Letters of Administration in her favour in respect of the Will. Ex.P1 is the Original Will dated 21.10.2016; Ex.P2 is the computer generated copy of the death certificate of Mr.S.Janardhanam dated 09.05.2018; Ex.P3 is the computer generated copy of the death



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certificate of Mrs.K. Gunavathy dated 28.01.2014; Ex.P4 is the original consent affidavit filed by the 2nd defendant; Ex.P5 is the original consent affidavit filed by the 3rd defendant and Ex.P6 is the original consent affidavit filed by the 4th defendant.

6. This Court heard the learned counsel on either side, considered their submissions and also perused the materials placed on record.

7. Perused the memo filed on behalf of the defendants 2 and 4 adopting written statement filed by the 3rd defendant.

8. When the matter was taken up today, the learned counsel for the plaintiffs submitted that the consent affidavit of the defendants 2 to 4 have already been filed stating that they have withdrawing the objections to the Original Petition as they have no objection for the grant of Letters of Administration to be granted in favour of the plaintiff which have been duly signed by the defendants. In and by the said consent affidavits, the defendants 2 to 4 have accord their consent for the grant of letters of administration annexed with the Will in favour of the Plaintiff who is the



sole legatee under the said Will of the deceased S. Janaradhanam. In the proof affidavit of the plaintiff, it is stated that the deceased S. Janardhanam died on 08.04.2018. She further submitted that the deceased bequeathed his immovable property to her absolutely and she is the sole beneficiary under the provisions made by the deceased under the Will dated 21.10.2016 and no executor has been appointed in the said Will. She further submitted that the defendants 2 to 4 have given their consent for grant of Letters of Administration in her favour.

9. In the proof affidavit of the attesting witness/PW2, it was stated that he along with one V. Shanmugam were present at the office of the Joint Sub-Registrar-I, Chennai- Central, witnessed subscribing the name at the foot of the testamentary paper in English language and marked with the letter "A" and declare and publish the same as his last Will and Testament. He attested that the signature at the foot of the testamentary paper as of the party executing the same is of the deceased S. Janardhanam and the names and signatures also subscribed and written at the foot of the said testamentary paper as of the parties attesting execution of the same are in the proper and respective handwritings of the said V. Shanmugam



and PW2 respectively. He deposed that the deceased was of sound and disposing state of mind, memory and understanding and to the best of his belief and published the same of his free will and pleasure.

10. Though there is no objection in granting letters of administration in favour of the Plaintiff on side of the Defendants 2 to 4, by entering into a consent affidavit as stated above and the Will is also admitted by the Defendants as genuine, even an admitted Will needs to be proved in a manner known to law. In this regard, the entire evidence let in by the parties is to be looked into in proper and perspective manner.

11. Considering the evidences of P.W.1 & P.W.2 and the documents filed on behalf of the plaintiff is not only proved the execution, but also the attestation of the Will and also taking note of the fact that the defendants 2 to 4 have also given consent affidavit for grant of Letters of Administration, this Court is of the view that the plaintiff is entitled for the issuance of Letters of Administration in her favour.

12 Accordingly, this Testamentary Original Suit is decreed as



prayed for. Issue Letters of Administration in respect of the Will dated 21.10.2016 in favour of the plaintiff. The plaintiff is directed to duly administer the properties and credits of the deceased. The plaintiff is 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 plaintiff is further directed to render true and correct accounts once in a year. Considering the relationship between the parties, there shall be no order as to costs.

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



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A.A.NAKKIRAN,J.

gv

Witnesses examined on the side of the plaintiff:

P.W.1. - Mrs. B. Kanniammal

P.W.2 - Mr.G.Kotti

Exhibits produced on the side of the plaintiff:

S.No.	Exhibits	Date	Description
1.	P-1	21..10.2016	Original Will
2.	P-2	09.05.2018	Computer generated copy of the death certificate of Mr.S.Janardhanam
3.	P-3	28.01.2014	Computer generated copy of the death certificate of Mrs.K. Gunavathy
4.	P-4	---	Original consent affidavit filed by the 2 nd defendant.
5.	P-5	----	Original consent affidavit filed by the 3 rd defendant.
6.	P-6	----	Original consent affidavit filed by the 4 th defendant.

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