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N.SATHISH KUMAR, J.

This petition has been filed under Sections 232 and 276 of the Indian Succession Act, 1925 read with Order XXV, Rule 5 of O.S. Rules, seeking to grant of Letters of Administration.

2. The case of the petitioners is that the deceased K.P.Ganesan @ P.Ganesan executed a registered will dated 09.11.2016 bequeathing the properties in favour of the petitioners and the testator died on 25.09.2018. The petitioners are the grandchildren of the deceased and the beneficiaries under the said will. The deceased executed a will on condition that to pay a sum of Rs.5000/- per month to the testator's second wife namely the 5th respondent from and out of source of income with respect to the schedule property. The first respondent is the wife of the testator, respondents 2 to 4 are the son and daughters of the testator. It is also stated by the petitioners that the whereabouts of the attesting witnesses have not known, they have also sent notices to them, however, they could not be found. Hence, 3rd party



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affidavit has been filed by one Mr.B.Prakas, who is a family friend and dental doctor of the deceased identified the signature of the testator and the attesting witness of the will. There is no other kin or persons interested who has to be impleaded. The amount of assets which is likely to come into the petitioners hands does not exceed in the aggregate sum of Rs.40,00,000/- and the net amount of the assets, after deducting all items which the petitioners are by law allowed to deduct is of the value of Rs.40,00,000/-. The petitioners undertake to duly administer the property and credits of the deceased K.P.Ganesan @ P.Ganesan and in any way concerning the Will by paying first his debts and then the legacies therein bequeathed so far as the assets will extend and to make a full and true inventory thereof to the Court within six months from the date of grant of Letters of Administration to the petitioners and also to render to this Court a true account of the said property and credits within one year from the said date.

3. The first petitioner examined herself as P.W.1 and he had narrated the averments made in the petition stating that the petitioner has filed this petition for the grant of probate in their favour in respect of the Last Will



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and Testament executed by the testator on 09.11.2016. Ex.P.1 is the original registered will executed by the deceased K.P.Ganesan @ P.Ganesan. The deceased has executed the Will on 09.11.2016. Exs.P.2 & P.3 are the photocopies of the birth certificate of the petitioners. Exs.P4 & P.5 are the photocopies of the Aadhar Card of the petitioners. Exs.P8 is the computer generated copy of the death certificate of the deceased K.P.Ganesan @ P.Ganesan. The testator died on 25.09.2018. Ex.P.16 is the office copy of the notice sent by the petitioners' counsel to the attestors dated 09.11.2021. Ex.P16 is filed to prove the fact that the steps have been taken to find out the attesting witnesses, however, none have been found. Exs.P.17 & 18 are the paper publications, none have objected. Ex.P20 is the 3rd party affidavit filed by P.W.2 identifying the signature of the attesting witness Mr.A.Arun Kumar.

4. The third party namely Dr.B.Prakas has been examined as P.W.2. P.W.2 in his evidence has spoken about the signature of the first attesting witness namely Mr.A.Arunkumar as well as the signature of the testator.



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P.W.2 is a family friend and dental doctor of the testator's family. The evidence of P.W.1 and P.W.2 comply the provisions laid under Section 69 of the Indian Evidence Act, 1872 and hence, there is no other materials to suspect the Will.

5. In view of the above facts, I am of the view that the petitioners have proved the execution and attestation of the Will. Hence, the petitioners are entitled for the issuance of Letters of Administration in their favour.

6. Accordingly, this petition is allowed. Issue Letters of Administration in favour of the petitioners. The petitioners are directed to duly administer the properties and credits of the deceased more fully described in the schedule. The petitioners are 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 petitioners are further directed to render true and correct accounts once in a year.

02.01.2024



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