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O.P.No.445 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **12.07.2024**

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

O.P. No. 445 of 2023

Sathya Thanikachalam

... Petitioner

Vs.

1.Vahitha Rahman

2.Rafiqi Asif

3.Shreen Pathima

... Respondents

PRAYER: Original Petition filed under Sections 232 and 276 of the Indian Succession Act XXXIX of 1925, read with Order XXV Rule 5 of Original Side Rules to grant Letters of Administration with Will annexed of the property and credits of the deceased to the petitioner as granddaughter beneficiary under the Will of the deceased to have now effect limited to the state of the Tamil Nadu.

For Petitioner : Mr.T.D.Mohan Ram

ORDER

The petition has been filed under Sections 232 and 276 of the Indian Succession Act, seeking Letters of Administration with respect to a Will dated 19.09.1973 executed by Lakshmi Ammal, the grandmother



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of the petitioner, who died on 05.10.1975.

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2. The petitioner, at the time when the Will was executed, was 7 years old. The father of the petitioner died on 10.05.1981 and the mother died on 26.12.1992. The petitioner was a minor at that particular point of time. She did not have any knowledge of the Will. However, in the Will, a bequeath was made of a property and when the petitioner wanted to deal with the same, she came to know about the Will and had filed this petition. There are three respondents. The 2nd and 3rd respondents are the son and daughter of the 1st respondent. The 1st respondent had married Rafiqi Asif, who actually is the brother of the petitioner and had converted to Islam. Notice had been directed to the respondents and service had been completed, but there has been no appearance on behalf of them.

3. The matter was however directed for evidence to be tendered. Since there was appearance on behalf of the respondents, inspite of notice being served, respondents are set exparte. After following due



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procedure, the petitioner was directed to tender evidence. Accordingly, the petitioner examined herself as P.W.1. The original Will dated 19.09.1973 was marked as Ex.P2. The death certificate of the testatrix was marked as Ex.P3. The death certificate of the parents were marked as Exs.P4 and P5. The legal heirship certificate of the mother was marked as Ex.P6. The petitioner also examined Mr.R.Govindan as P.W.2 and Mr.Thomas Kathiravan as P.W.3. They were the attestors to the Will. They both identified Ex.P2 – Will and stated that the Will was executed in their presence and Lakshmi Ammal was in sound state of mind while executing the Will and they also signed in the presence of each other and in the presence of testatrix. The affidavit of R.Govindan was marked as Ex.P13.

4. Taking into consideration the nature of evidence adduced and documents produced, this Original Petition stands allowed. Letters of Administration to be granted to the petitioner in accordance with rules. Such Letters of Administration shall have effect throughout the State of Tamil Nadu. The petitioner is directed to execute a security bond for a



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

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Index :Yes/No
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APPENDIX

Petitioner's witness:

P.W.1 – Mrs.Sathya Thanikachalam
P.W.2 – Mr.R.Govindan
P.W.3 – Mr.Thomas Kathiravan

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Certified copy of the sale deed dated 24.12.1953 (compared with the original).
Ex.P2	Original Will dated 19.09.1973 executed by Mrs.Lakshmiammal.
Ex.P3	Computer generated death certificate of Mrs.Lakshmiammal.
Ex.P4	Computer generated legal heir ship certificate of Mr.Babulingam.
Ex.P5	Computer generated death certificate of Mrs.B.Vasantha.



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<i>Exhibits</i>	<i>Documents</i>
Ex.P6	Photocopy of the legal heirship certificate of Mrs.B.Vasanth (compared with the original).
Ex.P7	Photocopy of my Aadhaar Card (compared with the original).
Ex.P8	Photocopy of my Aadhaar Card of Mrs.Vahitha Rahman (compared with the original).
Ex.P9	Online printout of property tax receipt dated 22.12.2020 in respect of the property standing in the name of Mrs.Lakshmiammal.
Ex.P10	Affidavit of assets showing the net value of the estate as Rs.2,00,00,000/-.
Ex.P11	Copy of the paper publication effected in one issue of Tamil Daily “Makkal Kural” dated 19.01.2024.
Ex.P12	Copy of the paper publication effected in one issue of English Daily “Trinity Mirror” dated 27.01.2024.
Ex.P13	Affidavit of Mr.R.Govindan.

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