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T.O.S No.17 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

T.O.S No.17 of 2014
(O.P No.142 of 2013)

1.T.S.Narasimhan(deceased)
2.T.S.Murali
3.T.S.Ananthakrishnan
4.T.S.Nandhini @ M.Rifqa Ruqayaa
(Plaintiffs 3 and 4 were brought on record
as legal heirs of the 1st plaintiff as per
order dated 14.09.2023 in Appl.No.4760
of 2023)

... Plaintiffs

Vs

1.Hema Raman
2.Jayanthi Raman

... Defendants

Prayer: Testamentary Original Suit filed under Sections 232 and 276 of the Indian Succession Act XXXIX of 1925 read with Order XXV Rule 5 of the Original Side Rules 1956, for the grant of Letters of Administration in respect of the Last Will and Testament of the deceased Mr.T.Sudharsana Thathachariyar. As per order of this court, the Original Petition No.142 of 2013 has been converted into Testamentary Original Suit No.17 of 2014.



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For Plaintiff : Mr.P.P.Vikram

For Defendants : Mr.P.B.Ramanujam for D1 & D2

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 T.Sudharsana Thathachariyar.

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

The plaintiffs 1 & 2 are the two sons among four sons of the testator T.Sudharsana Thathachariyar. The respondents 4, 5, 11 & 12 in O.P No.142 of 2013 namely, P.Lakshmi, P.N.Seetha, R.Ramani and T.S.Usha are the daughters of the said Sudharsana Thathachariyar. The defendants and one T.S.Seshadiri, who is the 3rd respondent in O.P No.142 of 2013, are the grand children of the testator born through the deceased son i.e T.S.Santhanam. The respondents 6 to 10 namely, K.Venugopalan, S.Latha, V.Sudha, R.Priya and K.V.Ramu in O.P No.142 of 2013 are the legal heirs of the deceased daughter i.e K.Vedavalli, of the testator. The respondents 13 to 15 namely T.S.Mythili, T.S.Parthasarathy



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and T.S.Neeraja in O.P No.142 of 2013 are the legal heirs of the predeceased son, i.e T.S.Vasudevan, of the testator. The Testator T.Sudharsana Thathachariyar died on 06.02.2008 and executed a Will dated 09.04.1996. The plaintiffs are one among the beneficiaries named in the Will executed by late T.Sudharsana Thathachariyar on 09.04.1996. The other beneficiaries under the Will are other sons of late T.Sudharsana Thathachariyar. The other two beneficiaries are not alive now. The amount of assets which is likely to come to the petitioner/plaintiff's hand does not exceed in the aggregate a sum of Rs.1,50,000/- and the net amount of the said assets after deducting all items which the plaintiff is as per law allowed to deduct is only of the value of Rs.1,49,000/-. The plaintiffs have impleaded all the next of kin or other persons interested as parties/respondents. Among the legal heirs of the testator, two sons and one daughter viz., T.S.Santhanam, K.Vedavalli and T.S.Vasudevan died on 18.12.2008, 14.08.2010 and 03.11.2007 respectively. The legal heirs of the deceased son and daughters have been made as respondents herein. All the respondents herein, except the respondents 1 & 2/plaintiffs 1 & 2 have given their consent for grant of Letters of Administration. The parents of the Testator have also predeceased him.



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2.01. No application has been made to any District Court or Delegate or to any other High Court for probate of any Will of the said deceased or Letters of Administration with or without Will annexed of her property and credits. The existence of the said Will executed by late T.Sudharsana Thathachariyar has come to the knowledge of the petitioners/plaintiffs only recently in the month of May 2012, when they were making search of some documents, in the subject property in which late T.Sudharsana Thatachariyar was lastly residing. The petition is only in respect of the City property. All other movable properties have been settled among all the legal heirs even during the life time of late T.Sudharsana Thatachariyar itself. The other immovable properties specified in the Will is situated out of the jurisdiction of this Court and also given to other beneficiaries under the same Will dated 09.04.1996. No executor has been appointed by the testator under the said Will. The petitioners/plaintiffs hereby undertakes to duly administer the property and credits of the said late T.Sudharsana Thathachariyar, deceased and in any way concerning his Will by first paying his debts and then the legacies therein bequeathed so far as his 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



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of Administration to the petitioners/plaintiffs 1 & 2 and also to render to this Court a true account of the said property and credits within one year from the said date. Hence, he prays to grant Letters of Administration of the Will.

3. The brief facts of the written statement filed by the defendants 1 & 2 are as follows:

The Will projected to be the last Will and Testament of late T.Sudharsana Thathachariyar, is not his Last Will and Testament. In fact, to the knowledge of the plaintiffs, as well he had executed a Holograph Will, giving more or less equal benefits to all his children, namely 4 sons, thereby superseding the bequest made by the Will which is sought to be probated. The said holograph Will was duly executed in the presence of two witnesses and the same was entrusted to the 3rd respondent in the O.P., namely T.S.Seshadri and the reasons for not producing the same is best known to him. These defendants hereby call upon the 3rd respondent, in the O.P., to produce the original holograph Will, which is the Last Will and Testament of Late T.Sudharsana Thathachariyar. In any event, the Testator T.Sudharsana Thathachariyar had equal love and affection



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towards all his children and by no stretch of imagination, he would see such disparity between them, thereby giving two sons, two properties in Kancheepuram and valuable properties in the City of Chennai to other two sons and such bequest is wholly unnatural. Considering the above circumstances, these defendants state that the alleged Will is neither the Last Will and Testatment of T.Sudharsana Thathachariyar nor is it a true and genuine Will. The testator died on 06.02.2008. The plaintiffs have not chosen to initial legal proceedings before this Court for a period of more than 5 years and on the ground of limitation also the suit is barred being instituted beyond 3 years from the date of demise of Testator and is clearly hit by Article 137 of the Limitation Act. Hence the suit is liable to be dismissed.

4. Heard the learned counsel on either side and perused the records.

5. The 2nd plaintiff examined himself as P.W.1 and he had narrated the averments made in the petition stating that the plaintiffs 1 &2 have filed the main original petition for the grant of Letters of Administration in their favour in respect of the Last Will and Testament executed by the



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deceased testator T.Sudarsana Thathachariyar on 09.04.1996. Ex.P10 is the original Will dated 09.04.1996 executed by the deceased testator T.Sudharsana Thathachariyar. Ex.P1 is the death certificate of deceased testator and the same has been filed to show that the testator died on 06.02.2008. Ex.P11 is the legal heir certificate of deceased testator T.Sudharsana Thathachariar. Ex.P2 is the death certificate of deceased testator's wife Ranganayaki. Ex.P5 and Ex.P3 are the death certificate and legal heir ship certificate respectively of the deceased T.S.Santhanam, who is the son of the testator. Ex.P7 and Ex.P4 are the death certificate and legal heir ship certificate respectively of the deceased K.Vedavalli, who is the daughter of the deceased testator. Ex.P8 and Ex.P6 are the death certificate and legal heir ship certificate respectively of the deceased T.S.Vasudevan, who is the son of the deceased testator. Ex.P9 is the death certificate of T.S.Santha, who is the daughter of the deceased testator. During the pendency of the suit, the 1st plaintiff had expired and his legal heirs were impleaded as plaintiffs 3 and 4 in this case.

6. One of the attestors of the Will dated 09.04.1996 viz., S.Venkatesan was examined as P.W.2. In his evidence, P.W.2 has stated



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that the testator executed his last Will and Testament on 09.04.1996 and he has been witnessed the Will. The evidence of P.W.2 has not only proved the execution, but also attestation of the Will.

7. When the matter taken up for hearing today, the learned counsel for the defendants 1 & 2 has stated that she has no objection to decree the suit.

8. Considering the fact that the evidence of PW1 and PW2 and the documents filed on behalf of the plaintiffs 2, 3 and 4 are not only proved the execution, but also the attestation of the Will and also taking note of the fact that the defendants 1 & 2 have given no objection to decree the suit, this Court is of the view that the plaintiffs 2, 3 and 4 are entitled for the issuance of Letters of Administration in their favour.

9. Accordingly, this Testamentary Original Suit is decreed as prayed for. Issue Letters of Administration in respect of the Will dated 09.04.1996 in favour of the plaintiffs 2, 3 and 4. The plaintiffs 2, 3 and 4 are directed to duly administer the properties and credits of the deceased



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more fully described in the schedule. The plaintiffs 2, 3 and 4 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 plaintiffs 2, 3 and 4 are 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
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Witnesses examined on the side of the plaintiff:

P.W.1. - T.S.Murali

P.W.2 - S.Venkatesan

Exhibits produced on the side of the plaintiff:

S.No.	Exhibits	Date	Description
1.	P-1	06.02.2008	Original death certificate of the testator T.Sudharsana Thathachariar
2.	P-2	11.09.2006	Original death certificate of deceased testator wife



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S.No.	Exhibits	Date	Description
3.	P-3	25.02.2009	Original legal heirship certificate of Santhanam
4.	P-4	15.05.2012	Original legal heir ship certificate of Vedavalli.
5.	P-5	18.12.2008	Computer generated death certificate of T.S.Santhanam
6.	P-6	19.11.2007	Original legal heirship certificate of T.S.Vasudevan
7.	P-7	16.08.2010	Computer generated death certificate of K.Vedavalli
8.	P-8	031107	Computer generated death certificate of T.S.Vasudevan
9.	P-9	28.12.1990	Computer generated death certificate of T.S.Santha
10.	P-10	090496	Original Will executed by T.Sudharsana Thathachariar
11	P-11	29.08.2008	Original legal heir certificate of deceased testator T.Sudharsana Thathachariar.

Witnesses and documents on the side of the defendants.

NIL

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A.A.NAKKIRAN,J.

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