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O.P.No.817 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **22.07.2024**

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

O.P. No. 817 of 2023

1.Lalit Kumar Jain
2.Mangal Chand Jain
3.Harish U Jain
4.Kantha R

... Petitioners

PRAYER: Original Petition filed under Sections 218 & 278 of the Indian Succession Act XXXIX of 1925, read with Order XXV Rule 5 of Original Side Rules to grant the petitioners Letters of Administration without Will of the property and credits of both deceased to have effect throughout the whole of the State of Tamil Nadu.

For Petitioners : Ms.N.Devi

ORDER

The petition has been filed seeking Letters of Administration without Will annexed with respect to the property described as Item No.1 in the petition which stood in the name of Uttam Chand Khariwal, father of the petitioners and with respect to the properties described as Item



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Nos.2 and 3 in the petition which stood in the name of Kishore Kumar, brother of the petitioners.

2. The father of the petitioners, Uttam Chand Khariwal died intestate on 01.04.2016. The brother of the petitioners, Kishore Kumar died intestate on 02.11.2021. He had led an interesting live. He had married twice and both the marriages were dissolved by orders of the Court. He had no children through both the marriages. It is therefore contended that the petitioners are the only surviving Class-I legal heirs of their father and Class-II legal heirs of their brother.

3. After following due procedure, the petitioners were directed to tender evidence. Accordingly, each one of the 4 petitioners examined themselves independently. The 1st petitioner examined himself as P.W.1 and marked documents relating to the property in Item no.1 as Ex.P1, the document relating to the property in Item Nos.2 and 3 were marked as Exs.P5 and P6. The death certificate of the father was marked as Ex.P7 and that of the mother was marked as Ex.P3 and that of the brother was



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marked as Ex.P10. The legal heirship certificate in the name of the father was marked as Ex.P8 and in the name of the mother was marked as Ex.P9. This Court had sought the legal heirship certificate of the brother, Kishore Kumar, but the learned counsel stated that since the petitioners were Class – II legal heirs, obtaining such legal heirship certificate was a cumbersome process. The orders granting divorce to the Kishore Kumar were marked as Exs.P2 and P4. Thereafter, the 2nd, 3rd and 4th petitioners examined themselves as P.W.2, P.W.3 and P.W.4 respectively. They produced the copies of their Aadhaar Card which were also marked.

4. Taking into consideration the evidences adduced and documents produced, this Original Petition stands allowed and Letters of Administration without Will annexed to be granted in favour of the petitioners in accordance with rules and direction is given such that each one of the 4 petitioners should execute separate security bond with respect to the properties which they are entitled to administer of the father and brother separately. Such Letters of Administration shall have effect throughout the State of Tamil Nadu. The petitioners are directed to



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execute a security bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) in the name of the Assistant Registrar (Original Side) of this Court and they are 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

Petitioners' witness:

P.W.1 – Lalit Kumar Jain
P.W.2 – Mangal Chand Jain
P.W.3 – R.Kantha
P.W.4 – Harish U Jain

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Photocopy of the sale deed dated 22.07.1972 executed in favour of Mr.M.Uttam Chand Khariwal (compared with the original).
Ex.P2	Photocopy of the order dated 31.01.2000 in F.C.O.P.No.1252/1999 passed by the II Additional Family



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<i>Exhibits</i>	<i>Documents</i>
	Court, Chennai (compared with the original).
Ex.P3	Computer generated death certificate of Mr.Chanchal Kaver.
Ex.P4	Photocopy of the order dated 06.06.2013 in O.P.No.2599 of 2012 passed by the I Additional Family Court, Chennai. (compared with the original).
Ex.P5	Photocopy of the sale deed dated 11.10.2013 executed in favour of Mr.U.Kishorekumar (compared with the original).
Ex.P6	Photocopy of the settlement deed dated 10.03.2016 executed in favour of Mr.U.Kishorekumar (compared with the original).
Ex.P7	Computer generated death certificate of Mr. Uttam Chand Khariwal.
Ex.P8	Photocopy of the legal heirship certificate of Mr.M.Uttam Chand Khariwal. (compared with the original).
Ex.P9	Photocopy of the legal heirship certificate of Mr.Chanchal kanwar. (compared with the original).
Ex.P10	Computer generated death certificate of Mr.Kishore Kumar.
Ex.P11	Photocopy of my Aadhaar Card (compared with the original).
Ex.P12	Affidavit of assets showing the net value of the estate as Rs.54,00,000/-.
Ex.P13	Copy of the paper publication effected in one issue of Tamil Daily “Makkal Kural” dated 11.04.2024.
Ex.P14	Copy of the paper publication effected in one issue of



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<i>Exhibits</i>	<i>Documents</i>
	English Daily “Trinity Mirror” dated 18.04.2024.
Ex.P15	Certificate under Section 63 of BSA, 2023 for receiving electronic documents.
Ex.P16	Photocopy of Aadhaar card of Mangal Chand Jain (compared with the original).
Ex.P17	Photocopy of Aadhaar card of Harish U Jain (compared with the original).
Ex.P18	Photocopy of Aadhaar card of R.Kantha (compared with the original).

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