



O.P.No.76 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :13.12.2024

Pronounced on :17.12.2024

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

ORIGINAL PETITION NO.76 OF 2024

L.Kirubakaran

.. Petitioner

/versus/

1.Jaikumar

2.Maragada Mary

3.Fros Joy

4.Glory Leela

5.Mery

.. Respondents

Prayer: Original Petition filed under Sections 218 and 278 of the Indian Succession Act, 1925 read with Order XXV, Rule 5 of O.S. Rules, praying that Letters of Administration without the Will may be granted to the petitioner as his foster son of the Estate properties of the deceased David Karunakaran to having effect limited to the State of Tamil Nady may be granted to him.



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For Petitioner :Mr.D.Babu

For Respondents :No Appearance

ORDER

The petition is filed to grant Letters of Administration for the assets of Late David Karunakaran. According to the petitioner, Late David Karunakaran married one Nithyakalyani and they had no issues. Under Christian Law, adoption not acknowledged. Hence, they took the petitioner as foster son and treated him as their own son. In the service records of Nithyakalyani, the petitioner is shown as her adopted son. In her bank accounts and fixed deposit, he is shown as nominee. During the life time David Karunakaran purchased properties morefully described in the schedule to the petition. David Karunakaran died intestate on 05.05.2021. Nityakalyani died intestate on 06.08.2022. As foster son the petitioner claims grant of Letters of Administration in respect of the assets of Late David Karunakaran.



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2. The respondents are brother and sisters of the Late Karunakaran. The notice sent to them returned with endorsement as “ REFUSED”. The general paper publication inviting objections from general public not evoked any response.

3. The petitioner had graced the witness box. Filed proof affidavit in lieu of chief examination and marked the following documents in support of his claim.

Ex.P1	Computer generated death certificate of Mr.M.David Karunakaran
Ex.P2	Computer generated legal heir ship certificate of Mr.M.David Karunakaran.
Ex.P3	Computer generated death certificate of Mrs.Nithya Kalyani
Ex.P4	Photocopy of the nomination form of Mrs.V.Nithyakalyani in New Health Insurance Scheme.
Ex.P5	Photocopy of the nomination registration application form nominating PW-1 as the nominee dated 24.07.2021 in State Bank of India addressed to Mrs.V.Nithyakalyani
Ex.P6	Photocopy of the receipt for burial fee dated 09.09.2022 for Mrs.D.Nithyakalyani



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Ex.P7	Photocopy of the application form for opening of an account under senior citizen savings scheme in State Bank of India of Mr.V.Nithyakalyani.
Ex.P8	Computer generated account statement for the period 01.04.2022 to 23.09.2022 standing in the name of Mrs.V.Nithyakalyani in State Bank of India bearing A/c No.00000010186559574.
Ex.P9	Photocopy of the statement of account standing in the name of Mr.Kirubakaran in State Bank of India bearing A/c No.39628634302.
Ex.P10	Photocopy of the New Health Insurance Scheme Card issued by Government of Tamil Nadu standing in the name of Mrs.V.Nithyakalyani.
Ex.P11	Computer generated encumbrance certificate dated 03.10.2022 for the period 01.01.1998 to 27.09.2022 of the schedule A property mentioned in the petition.
Ex.P12	Computer generated encumbrance certificate dated 01.10.2022 for the period 01.01.1999 to 27.09.2022 of the schedule B property mentioned in the petition.
Ex.P13	Photocopy of PW-1 Aadhaar Card
Ex.P14	Photocopy of the sale deed dated 22.01.1998 executed in favour of Mr.David Karunakaran.
Ex.P15	Photocopy of the sale deed dated 15.09.1999 executed in favour of Mr.M.David Karunakaran.
Ex.P16	Online printout of guideline value of the schedule A property mentioned in the petition.
Ex.P17	Online printout of guideline value of the schedule B property mentioned in the petition.
Ex.P18	Certificate under Section 65B of the Indian Evidence Act, 1872.
Ex.P19	Affidavit of assets showing the net value of the estate as Rs.15,00,000/-.
Ex.P20	Copy of the paper publication effected in one issue of Tamil daily



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	“Makkal Kural” dated 12.07.2024.
Ex.P21	Copy of the paper publication effected in one issue of English daily “Trinity Mirror” dated 19.07.2024.
Ex.P22	Photocopy of the application form for nomination facility in respect of settlement claim for Mrs.Nithyakalyani given to State Bank of India.

4. The scrutiny of the documents relied by the petitioner, there is no evidence to show the petitioner was the foster son of David Karunakaran. The documents like Ex.P-4 the nomination Form in New Health Insurance Scheme showing the petitioner as adopted son is only an application in the name of Nithyakalyani and not an evidence for proof for adoption. Ex.P-5 is the letter from SBI acknowledging receipt of nomination made by her in respect of her account. From this document, it is proved that Nityakalyani had nominated the petitioner for her Account. This is also not a proof of adoption or proof that she has taken the petitioner as foster son. No document from the employee produced by the petitioner to prove he was recognised by David Karunakaran or Nithyakalyani as their adopted son.



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5. The Aadhar card of the petitioner indicates that he is son of Lazar. The document Ex.P-8 is the Statement of Account in respect of the Account No:00000010186559574 at SBI in the name of Nithyakalyani. After the demise of Nityakalyani, Rs.35,691/- stood in her account been withdrawn and closed on 22.09.2022. Probable in view of the nomination, Ex.P-22, the petitioner was allowed to withdraw the money. This will not inure him to claim Letters of Administration in respect of the assets of Late David Karunakaran, because his wife has appointed the petitioner as her nominee.

6. Nomination to the Bank Account is not a proof for adoption. Also the nomination of the petitioner by Nityakalyani cannot be construed as he is the foster son of Late David Karunakaran.



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7. The respondents are the siblings of the late David Karunakaran. Though they have not contested the petition, the petitioner had to independent prove that he was the foster son of David Karunakaran. Having failed to prove it and not satisfactorily explained why Letters of Administration in respect of the assets of David Karunakaran to be given to him instead of the legatees, this Court dismiss the petition.

8. In the result, O.P.No:76 of 2024 stands dismissed.

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Index:yes/no

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Petitioners' witness:-

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PW-1: Mr.L.Kirubakaran

Documents marked:-

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DR.G.JAYACHANDRAN,J.

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delivery Order made in
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