



O.P.No.163 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on : 20.11.2024

Pronounced on: 26.11.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Original Petition No.163 of 2024

Mr.P.K.Guruprasad.

...Petitioner

PRAYER: Original Petition has been filed under Section 232 and 276 of the Indian Succession Act read with Order XXV Rule 5 of Original Side Rules that Letters of Administration with the Will dated 16.06.2017 annexed may be granted to him as the nephew of the said deceased having effect throughout the State of Tamil Nadu.

For Petitioner : Mr.B.Shanmugavelandam

ORDER

This petition has been filed under Sections 232 and 276 of Indian Succession Act, read with Order XXV, Rule 5 of Original Side Rules for grant of Letters of Administration in the matter of Last Will and Testament of Mrs.P.S.Vasanthabai, who died on 29/06/2023.



2. The petitioner's father P.S.Krishnamoorthy and the deceased

P.S.Vasanthabai are brother and sister. On 20/03/1992, both Krishnamoorthy and Mrs.P.S.Vasanthabai jointly purchased "A" schedule property and got the sale deed registered as Document No: 859/1992 on the file of the Joint Registrar I, District Registrar Cadre, Saidapet. Subsequently, Krishnamoorthy the father of the petitioner died intestate on 05-01-1999. The petitioner being his son and sole legal heir had inherited half of the share in the property and jointly possessed with P.S.Vasanthabai as co-owner.

3. Subsequently, the petitioner and P.S.Vasanthabai entered into an agreement with a builder and demolished the existing "A" Schedule property and reconstructed the property morefully described in the "B" Schedule. After re-construction in the year 2010, the petitioner and P.S.Vasanthabai were in absolute possession and enjoyment of the "B" Schedule property. In the said circumstances, P.S.Vasanthabai died on 29/06/2023. During her lifetime, P.S.Vasanthabai executed a Will and got it registered at Sub Registrar Office, Adyar as Document No:36/2017 in the presence of two witnesses, namely, R.L.Jayachandar and N.Lakshmi Narayanan. In her will she did not name any person as an Executor. P.S.Vasanthabai had no issues and her husband was predeceased. Under the Will, P.S.Vasanthabai had bequeathed her 50% of



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share in the “B” schedule property in favour of the petitioner who is owner of the remaining 50% of the share. The deceased Vasanthabai in her will had also bequeathed the Bank Deposits and share certificates morefully described under Schedule “C” of the Will in favour of the petitioner.

4. In the Last Will of Vasanthabai registered at Chennai on 16.06.2017 no one is named as an Executor of the Will and hence the petitioner herein has filed the petition for grant of ‘Letters of Administration’. The petitioner undertakes to duly administer the property and credits of the deceased P.S.Vasanthabai and pay her debts first and then the legacies therein bequeathed so far as the assets will extend and to make a full and true inventory thereof and exhibit the same before the court within a period of six months from the date of grant of Letters of Administration.

5. To prove the due execution and registration of the Will dated 16.06.2017, the petitioner has examined one of the attesting witness by name Mr.N.Lakshmi Narayanan S/o.N.Natarajan as P.W-2. In his affidavit, PW-2 had sworn that he saw the testatrix and subscribing her signature at the foot of the testamentary paper. Thereupon, he and the other attesor Mr.R.L.Jeyachandar, at the request of the testatrix had subscribed their



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respective names and signatures. At the time of executing the Will the testator was in sound disposition of mind.

6. The affidavit of the attesting witness is marked as Ex.P-13. The witness had identified the signature of the testator and his signature found in the Will which is marked as Ex.P-1. Under this will, the testator had declared all the properties mentioned in the Will are her self earned properties and she bequeathed the immovable property as well as the securities which are mentioned in the petition in favour of the petitioner.

7. Copies of the Paper publication inviting objection for grant of “Letters of Administration” to the petitioner marked as Ex.P-11 and Ex.P-12. No caveat or objection received in response to the paper publication. Ex.P-8 the death certificate issued by the Medical Health Department of Andhra Pradesh indicates that P.S.Vasanthabai died at Manikonda Municipality Gandipet Mandal, Rangareddy District on 29.06.2023. Her husband Mr.Venkataraman pre-deceased her on 08.10.1984 (Death Certificate Ex.P-4). P.S.Krishnamoorthy who is the brother of Vasanthabai died on 05.01.1999 (Death certificate Ex.P-5). The legal heir certificate (Ex.P-7) issued by the Tahsildar, Mylapore indicates that the petitioner is the sole legal heir of



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P.S.Krishnamoorthy.

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8. Ex.P-2 and Ex.P-3 are documents to show that the “A” schedule property was jointly purchased by Vasanthabai (deceased) and her brother P.S.Krishnamoorthy on 20.03.1992 and subsequently, on 06.10.2010, Vasanthabai and the petitioner jointly executed power of attorney in favour of Achuthan Builders & Co for reconstruction.

9. Thus, from the documents produced by the petitioner along with the evidence of P.W-2 proves that the deceased Vasanthabai is the co-owner of the “B” schedule property and the absolute owner of the valuable securities morefully described in her Will. Those properties were acquired by her through her own income. She had in full disposition of mind had bequeathed the properties to the petitioner. Therefore, the petitioner is entitled to get the grant of “Letters of Administration” of the Will marked with Letter “A”, the Last Will and Testament of Late P.S.Vasanthabai.

10. In view of the evidence adduced, the Will been proved in the manner known to law as per Section 67 of the BSA Act. I hold there is no impediment to grant the relief sought in the Original Petition namely, granting



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Letters of Administration in the matter of the Will annexed.

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11. For the reasons stated above, this ***Original Petition stands allowed.*** The petitioner is directed to duly administer the properties and credits of the deceased more fully described in the schedule. The petitioner is directed to execute a 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 petitioner is further directed to render true and correct accounts once in a year.

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Index :Yes/No.

Internet :Yes/No.

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Petitioner's witness:

P.W.1 – P.K.Guruprasad

P.W.2 – N.Lakshmi Narayanan

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
Ex.P.1	Original Will dated 16.06.2017 executed by Mrs.P.S.Vasanthabai.
Ex.P.2	Photocopy of the sale deed dated 20.03.1992 executed in favour of Mr.P.S.Krishnamoorthy and Mrs.P.S.Vasanthabai
Ex.P.3	Certified copy of the power of attorney dated 06.10.2010 executed by Mrs.P.S.Vasanthabai and myself in favour of Mr.R.Gopal, the builder
Ex.P.4	Photocopy of the death certificate of Mr.Venkataraman
Ex.P.5	Original death certificate of Mr.P.S.Krishnamoorthy.



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<i>Exhibits</i>	<i>Documents</i>
Ex.P.6	Original death certificate of Mrs.Sulochana Krishna Moorthy.
Ex.P.7	Original legal heir ship certificate of Mr.P.S.Krishnamoorthy.
Ex.P.8	Original death certificate of Mrs.P.S.Vasanthabai.
Ex.P.9	Photocopy of my Aadhaar Card
Ex.P.10.	Affidavit of assets showing the net value of the estate as Rs.49,80,000/-.
Ex.P.11	Copy of the paper publication effected in one issue of Tamil Daily “Makkal Kural” dated 07.08.2024.
Ex.P.12	Copy of the paper publication effected in one issue of English Daily “Trinity Mirror” dated 13.08.2024.
Ex.P.13	Affidavit of attesting witness. (N.Lakshmi Narayanan)
Ex.P.14	Photocopy of my Aadhaar Card. (N.Lakshmi Narayanan)

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Dr.G.JAYACHANDRAN,J.

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Pre-delivery order made in
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