



O.P.No.164 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :06.11.2024

Pronounced on :08.11.2024

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

ORIGINAL PETITION NO.164 OF 2024

A.Balaji

.. Petitioner

//versus//

Mrs.A.Anita

.. Respondent

Prayer: Original Petition has been filed under Sections 232 and 276 of Indian Succession Act, read with Order XXV, Rule 5 of O.S. Rules, prays that Letters of Administration with the Will annexed may be granted to him as the petitioner being the brother's son of the deceased and beneficiary under the Will of deceased Miss.D.Choodamani, having effect throughout Chennai.

For Petitioner :Mr.D.Rajagopal

For Respondent :M/s D.Selvakumari



O.P.No.164 of 2024

WEB COPY

ORDER

This Original Petition filed under Sections 232 and 276 of the Indian Succession Act, 1925 read with Order XXV, Rule 5 of Original Side Rules, seeking grant of Letters of Administration for the Will dated 26/12/2012 executed by D.Choodamani, who died as spinster at Chennai on 05/07/2021.

2. The petitioner is the brother's son of the said Choodamani. He being the beneficiary of the Will, seeks Letters of Administration of the schedule mentioned property left behind by D.Choodamani.

3.The Will of D.Choodamani executed at Chennai on 26/12/2012 and duly registered at the Sub-Registrar Office, Mylapore, as Document No:14/BK-III/2012. The execution of the Will been witnessed by Mrs.A.Anitha and Mrs.N.Usha Rani.



O.P.No.164 of 2024

WEB COPY

4. Jayalakshmi, who is the mother of the deceased D. Choodamani had purchased one ground 1888 sq.ft from Madras City Improvement Trust on 14.03.1958 and improved the land by putting up construction over it. The said Jayalakshmi died intestate leaving behind her three children by name Choodamani, Lakshmi and Anand. The three children of Jayalakshmi had inherited each $\frac{1}{3}$ share. Later, her son Anand had relinquished his $\frac{1}{3}^{\text{rd}}$ share in favour of Choodamani, *vide* release deed dated 30/08/2001. The petitioner is the son of Anand and under the Will of Choodamani, he has bequeathed his $\frac{2}{3}^{\text{rd}}$ share to the petitioner.

5. Choodamani, being a spinster, at the time of her death, she had no class-I heir to inherit her property. She along with her brother and sister inherited the property from their pre-deceased mother. Her brother had already relinquished his $\frac{1}{3}^{\text{rd}}$ share in the property by a registered released deed in favour of Choodamani and her sister Lakshmi had bequeathed her



O.P.No.164 of 2024

1/3rd share in favour of this petitioner through a Will and Letter of Administration in respect of that Will granted by this Court.

6. The petitioner and the respondent are son and daughter of Late Anand, who is the brother of the testatrix Choodamani. The respondent has given her consent affidavit for grant of Letters of Administration in favour of the petitioner. She is also one of the attesting witnesses of the registered Will of Choodamani. To prove the due execution of the Will, apart from the petitioner, the other attesting witness Usharani been examined as witness.

7. The following documents are relied by the petitioner for grant of Letter of Administration:-

Ex.P1	Original Will dated 26.12.2012 executed by Ms.D.Choodamani.
Ex.P2	Certified copy of the sale deed dated 14.03.1958 executed in favour of Mrs.K.S.Jayalakshmi
Ex.P3	Certified copy of the release deed dated 30.08.2001 executed in favour of Ms.Choodamani.



O.P.No.164 of 2024

Ex.P4	Web copy of the order dated 06.01.2017 in O.P.No.219 of 2016 passed by the Hon'ble High Court.
Ex.P5	Computer generated death certificate of Ms.D.Choodamani
Ex.P6	Certificate under Section 65B of the Indian Evidence Act, 1872 for Ex.P5.
Ex.P7	Computer generated property tax receipt dated 19.04.2023 in respect of the property standing in the name of Ms.D.Choodamani.
Ex.P8	Certificate under Section 65B of the Indian Evidence Act, 1872 for Ex.P7.
Ex.P9	Affidavit of assets showing the net value of the estate as Rs.3,00,00,000/-
Ex.P10	Copy of the paper publication effected in one issue of Tamil Daily "Makkal Kural" dated 27.06.2024.
Ex.P11	Copy of the paper publication effected in one issue of English Daily "Trinity Mirror" dated 10.07.2024.
Ex.P12	Photocopy of the petitioner's Aadhaar Card.
Ex.P13	Affidavit of PW-2 as attesting witness
Ex.P14	Photocopy of PW-2's Aadhaar Card

8. In view of the evidence adduced, the execution of the Will stands proved in manner known to law by taking recourse under Section 67 of BSA, 2023. Hence, this Court holds that there is no impediment to grant the relief sought in the Original Petition namely, granting Letters of Administration with Will annexed.



O.P.No.164 of 2024

WEB COPY

9. With the above observations, this Original Petition stands allowed.

(i) Letters of Administration to be issued in accordance with Rules. Such Letters of Administration shall have effect throughout the State of Tamil Nadu.

(ii) 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 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.

(iii) The petitioner is further directed to render true and correct inventory of assets and statement of accounts within a period of six months and one year respectively.

08.11.2024

Index:yes/no

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O.P.No.164 of 2024

Internet:yes/no
Speaking Order/Non Speaking order
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petitioner's witness:-

PW-1:Mr.A.Balaji
PW-2:Mrs.A.Anita

Documents marked:-

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O.P.No.164 of 2024

Ex.P12	Photocopy of the petitioner's Aadhaar Card.
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08.11.2024



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O.P.No.164 of 2024

DR.G.JAYACHANDRAN,J.

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delivery Order made in
O.P.No.164 of 2024

08.11.2024