



O.P. No.738 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2025

CORAM :

THE HONOURABLE MR.JUSTICE P.DHANABAL

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1. S. Sulochana
2. R. Ananthi
3. Sakthivel Munusamy
4. Velu Munusamy
5. Kumari Venkatesh
6. Anandh Siva
7. Sumathi
8. K. Parameshwari
9. Jagatheswari Sekar
10. Vijayakumar
11. V. S. Sasikumar
12. V.S. Rajan
13. G. Ramani

... Petitioners

Vs

1. M. Kasthuri
2. T.P. Adikesavan
3. A. Srinivasan

... Respondents

PRAYER: Original Petition is filed under Section 232 and 276 of the Indian

Succession Act of 1925 read with Order XXV Rule 5 of the Original Side



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Rules praying to grant letters of Administration to the Will annexed with the petition, to the 2 to 13 petitioners as great grand children / legatees of the deceased Kannammal having effect through out the State of Tamil Nadu.

For Petitioner : Mr.M. Vijayanand

For Respondent :

R1 : Notice served. No appearance.

R2 & R3 : No appearance.

ORDER

This petition has been filed under Section 232 and 276 of the Indian Succession Act to grant Letters of Administration to the petitioners 2 to 13 to the estates and credits of the deceased having effect through out the State of Tamil Nadu.

2. After filing of this petition, this Court directed the petitioner to effect paper publication in any one of the issue of Tamil Daily and also in English daily and the paper publication was also effected and there is no any objection from any party. Thereafter, the case was posted for recording
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evidence and the evidence was also recorded. On the side of the petitioners,

PW1 and PW2 were examined and Ex.P.1 to Ex.P.17 were marked.

3. According to the petitioners, a property comprised in Paimash No.1041, Block No.28, T.S. No.91, Old Door No.15 part, Palaniandavar Koil Street, Ayanavaram, Chennai admeasuring to an extent of 1998+1665 sq. ft. was originally belonged to one Kannammal, having acquired title to the same and she had developed the said property from and out of her own acquisitions. The said Kannammal and her husband Murugappa Naicker had two sons namely Mr M. Punyakoti and Mr. Arumugam. The said Kannammal died on 16.10.1977. Her son M. Punyakoti predeceased her on 24.03.1967, leaving behind his wife Ranganayaki and three daughters namely Gnanammal, Indira and Sulochana. The said Sulochana is the 1st petitioner herein and the above said Ms. Ranganayaki died on 26.08.1971. The deceased Kannammal had executed a Will on 22.10.1972 bequeathing the schedule mentioned property to and in favour of her grand daughters Gnanammal, Indira and Sulochana for

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life with rights to receive rents and profits and absolutely to the children /
legal heirs of the above said grand daughters, the petitioners 2 to 13 herein.

Further the deceased Kannammal had executed a Settlement deed dated
23.10.1972 settling 1998 sq. ft. of land to and in favour of her younger son
Arumugam.

3.1. The deceased Kannammal executed the registered Will dated
22.10.1972 in a sound and disposing state of mind in the presence of the
witnesses namely Mr. Aadimoolam and A. Soosainathan. At present, their
whereabouts are not known to the petitioners. Therefore, the petitioners have
filed a third party affidavit of one Mrs. S. Vasanthakumari, who was present
with the testatrix at the time of execution of Will dated 22.10.1972. As per the
Will dated 22.10.1972, no any executor was appointed by the testatrix.
Among the three granddaughters of the deceased Kannammal, Ms. M.
Gnanammal died on 27.09.1996 leaving behind her children R. Ananthi,
Sakthivel Munusamy, Velu Munusamy and Kumari Venkatesh, the petitioners
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2 to 5 herein as her legal heirs. Further Ms. S. Indira died on 26.02.2022

leaving behind her children Anandh Siva, Sumathi and K. Parameshwari, the petitioners 6 to 8 herein as her legal heirs. The husband of the 1st petitioner namely Sekar died leaving behind him, his wife / 1st petitioner herein, his children, petitioners 9 to 13 herein.

3.2. The younger son of the deceased Kannammal, namely Arumugam expired on 12.05.1980 leaving behind his wife A. Rani and his daughters Neelavathi, Kasthuri and A. Rajeswari as his legal heirs. Among them, Ms. A. Rajeswari expired unmarried on 15.12.1995 and Ms. Neelavathi expired on 03.03.2016, leaving behind her husband T.P. Adhikesavan, the 2nd respondent herein and A. Srinivasan, the 3rd respondent herein. Ms. Kasthuri is the 1st respondent. The respondents 2 and 3 have filed their consent affidavits to grant letters of administration to the petitioners. The amount of assets which are likely to come into the petitioners' hand does not exceed aggregate sum of Rs.50,00,000/-. The deceased Kannammal executed the

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said Will dated 22.10.1972 in favour of her grand daughters for life with rights to receive rents and profits and absolutely in favour of the children / legal heirs of the grand daughters i.e., petitioners 2 to 13. Therefore, the petitioners prayed to grant letters of administration in favour of the petitioners 2 to 13.

4. The 1st petitioner herein, was examined as PW1. A perusal of evidence of PW1 and Ex.P.1 to Ex.P.17 revealed that the petitioners and the respondents are the legal heirs of the deceased and no any objection has been raised either by any of the respondents or any other party to grant letter of administration to the petitioners.

5. A registered Will dated 22.10.1972 was executed by the deceased Kannammal in the presence of two attesting witnesses. The whereabouts of two attesting witnesses are not known. The said Will is a more than 50 years old document. The original Will has been marked as Ex.P.1 by PW1. Since



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the Will is more than 50 years old document and it has been produced from

proper custody, a presumption under Section 90 of Indian Evidence Act is

available. At this juncture, it is relevant to rely upon a judgment of Hon'ble

Supreme Court in ***Marathal (died) and another vs. Kanniammal (died) and***

others reported in 2024 SCC Online Mad 5153 where it has been held that

"....insofar as the "Will" is concerned, if attesting witnesses are available,

then they should be examined in terms of Section 68 of Evidence Act, if the

witness is not available, then route under Sections 69 to 71 is available to the

profounder, if the 'Will' is more than 30 years old and produced from proper

custody, Section 90 is available to the Court to draw a presumption regarding

its "due execution"and "attestation" and if the 'Will' is more than 30 years old

and produced from proper custody, it is shown that the attesting witnesses are

alive and not produced before the Court, it may resort to presumption under

Section 114 illustration (g) instead of one under Section 90 of Evidence Act".

In the case on hand, the deceased Ms. Kannammal, had executed the Will on

22.10.1972, i.e., before 50 years and the Will has been attested by two

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attestors namely Mr. Aadimoolam and A. Soosainathan and now, their whereabouts are not known to the petitioners. Therefore, one Mrs. S.

Vasanthakumari has been examined as PW2. She has identified the Will and the signatures of the testatrix and both the attestors and she has also filed an affidavit to that effect. The respondents 2 and 3 have also filed their consent affidavits to grant letters of administration to the petitioners. The 1st respondent has not appeared before the Court. Therefore, the petitioners, through the evidences and documents, have amply proved the execution of Will. Therefore, the petitioners 2 to 13 are entitled to the relief as prayed for in the petition.

6. Accordingly, this Original Petition is ***allowed*** and Letter of Administration, to the estates and credits of the deceased Ms. Kannammal in favour of the petitioners 2 to 13, is granted.

7. Issue Letters of Administration in favour of the petitioners 2 to 13.

The petitioners are directed to duly administer the properties and credits of the deceased more fully described in the schedule. The petitioners 2 to 13 are

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directed to execute a **security bond** each 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 petitioners are further directed to render true and

correct accounts once in a year.

27.10.2025

Index : Yes/No

Speaking Order : Yes/No

mjs

APPENDIX:

List of Petitioner side Witnesses:

PW1 : Ms. S. Sulochana

PW2 : Ms. S. Vasanthakumari

List of Petitioner side Documents:

Exhibit No.	Date	Description of Documents.
Ex.P.1.	22.10.1972	Original Will of the Testator Kannammal.
Ex.P.2	23.10.2017	Certified copy of the partition deed entered into amongst the respondents.
Ex.P.3	19.07.2022	Computer generated copy of the Death Certificate of Kannammal.



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Ex.P.4.	19.07.2022	Computer generated copy of the Death Certificate of M. Punyakoti.
Ex.P.5	19.07.2022	Computer generated copy of the Death Certificate of Ranganayaki.
Ex.P.6.	22.04.2022	Computer generated copy of the Death Certificate of S. Indira.
Ex.P.7.	20.11.2022	Computer generated copy of the Legal Heir Certificate of S. Indira.
Ex.P.8.	21.05.2009	Photocopy of the Death Certificate of M. Gnanammal.
Ex.P.9.	25.09.2015	Photocopy of the Legal Heir Certificate of M. Gnanammal.
Ex.P.10	01.01.1940 to 31.12.1974	Original Encumbrance Certificate.
Ex.P.11	-	Photocopy of the Aadhar Card of S.Sulochana.
Ex.P.12	-	Affidavit of assets showing the net value of the estate at Rs.50,00,000/-
Ex.P.13	13.05.2025	One issue of paper publication in Tamil daily "Malai Murasu".
Ex.P.14	21.05.2025	One issue of paper publication in English Daily "Southern Mail" dated 21.05.2025.
Ex.P.15	-	Certificate under Section 63 of B.S.A. filed for Exs.P3 to P7.
Ex.P.16	-	Affidavit of PW2.
Ex.P.17	-	Photocopy of Aadhar Card of PW2.



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