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O.P. No.164 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2025

CORAM :

THE HONOURABLE MR.JUSTICE P.DHANABAL

O.P. No.164 of 2025

Radha Gopalakrishnan W/o. Late V.R. Gopalakrishnan ... Petitioner
Vs

1. V.G. Bharathi W/o. Mr. T.R. Subramaniyan
2. V.G. Varadarajan S/o. Late V.R. Gopalakrishnan ... 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 Rules praying to grant letters of Administration to the Will annexed with the petition, to the petitioner as daughter-in-law / beneficiary of the deceased Seethalakshmi Ammal having effect through out the State of Tamil Nadu.

For Petitioner : Mr.A. Arvind Raj
for M/s. BFS Legal
For Respondent :

R1 : Mr. P. Siddharth
R2 : No appearance.



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ORDER

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This petition has been filed under Section 232 and 276 of the Indian Succession Act to grant Letters of Administration to the petitioner 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 evidence and the evidence was also recorded. On the side of the petitioner, PW1 and PW2 were examined and Ex.P.1 to Ex.P.13 were marked.

3. According to the petitioner, one Smt. Seethalakshmi Ammal is the mother-in-law of the petitioner and grandmother of the respondents. The respondents are the daughter and son of the petitioner. The said deceased Seethalakshmi Ammal had possessed properties, during her lifetime, within

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the jurisdiction of this Court. The said Smt. Seethalakshmi Ammal died on

03.02.1993 leaving behind her husband Mr. V.G. Ramasamy and son V.R.

Gopalakrishnan, who are the father-in-law and husband of the petitioner respectively, as her Class-I legal heirs. The parents of the deceased pre-deceased her and the husband of the petitioner, who is the only son of the deceased, also passed away on 28.03.2015.

3.1. The said deceased Smt. Seethalakshmi Ammal, during her lifetime, had executed a Will dated 22.01.1992 at Chennai by bequeathing the schedule property in favour of the petitioner herein with all absolute rights of alienation. The said Will is an unregistered Will and as per the Will, no any executor was appointed by the Testatrix. The amount of assets which are likely to come into the petitioner's hand does not exceed aggregate sum of Rs.18,00,00,000/-. Therefore, the petitioner prayed to grant letters of administration in her favour.

4. The petitioner herein, was examined as PW1. One Mr. C.S.
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Hariharan, who knows one of the attestors to the Will namely Mr. C.H.

Subramanian, was examined as PW2. A perusal of evidences of PW1 and PW2 and Ex.P.1 to Ex.P.13 revealed the relationship and legal heirship of the parties with the deceased and the schedule mentioned property has been bequeathed in favour of the petitioner, as per the Will dated 22.01.1992 .

5. The Will dated 22.01.1992 is an 32 years old unregistered Will, which was executed by the deceased Smt. Seethalakshmi Ammal in the presence of two attesting witnesses. The original Will has been marked as Ex.P.1 by PW1. Since the Will is more than 30 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*"

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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".

5.1. In this case, one Mr. C.S. Hariharan has been examined as PW2. He has deposed that he is the son of Mr. C.H. Subramanian, who is one of the attesting witnesses in the Will executed by the testatrix Mrs. Seethalakshmi Ammal, that his father passed away on 04.02.2019 and his father and grandfather were the Auditors of Mr. V.G. Ramasamy Iyer, who is the husband of the Testatrix and PW2 is well acquainted with the signature of his father and also the testatrix. He has also identified the Will and the signatures

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of the testatrix and 2nd attesting witness and he has also filed an affidavit to that effect. Therefore, the petitioner, through the evidences and documents, has amply proved the execution of Will. Therefore, the petitioner is 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 Mrs. Seethalakshmi Ammal in favour of the petitioner is granted.

7. Issue Letters of Administration in favour of the petitioner. 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**. The petitioner is further directed to render true and correct accounts once in a year.

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Index : Yes/No

Speaking Order : Yes/No

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APPENDIX:

List of Petitioner side Witnesses:

PW1 : Mrs. Radha Gopalakrishnan

PW2 : Mr. C.S. Hariharan

List of Petitioner side Documents:

Exhibit No.	Date	Description of Documents.
Ex.P.1.	22.01.1992	Original Will executed by Mrs. Seethalakshmi Ammal.
Ex.P.2	-	Original Death Certificate of Mrs. Seethalakshmi.
Ex.P.3	-	Photocopy of the Legal Heirship Certificate of Mr. V.R. Gopalakrishnan.
Ex.P.4.	05.08.2025	Copy of English paper publication in 'Southern Mail'.
Ex.P.5	13.08.2025	Copy of Tamil paper publication in 'Dinakural'.
Ex.P.6.	-	Affidavit of Assets showing the net value of status as Rs.18,00,00,000/-.



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Ex.P.7.	-	Photocopy of the Death Certificate of Mr. Ramasamy Iyer.
Ex.P.8.	31.05.2012	Photocopy of the Settlement Deed.
Ex.P.9.	-	Downloaded copy of the Death Certificate of Mr. V.R. Gopalakrishnan.
Ex.P.10	-	Photocopy of PW1's Aadhar Card.
Ex.P.11	27.10.1976	Photocopy of the Sale Deed.
Ex.P.12	-	Certificate filed by PW1 under Section 65B of Indian Evidence Act.
Ex.P.13	-	Copy of Aadhar Card of PW2.

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