



O.P.No.246 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 12.02.2025

CORAM

THE HONOURABLE **MR.JUSTICE K.KUMARESH BABU**
O.P.No.246 of 2023

S.Krishnakumar

(transposed as petitioner vide order dated 11.12.2023

in OA.No.6313 of 2023)

... Petitioner

Vs

1.A.V.Swaminathan

2.K.S.Sarada

3.S.V.Sathyamoorthy

4.S.Ganesh

5.S.Varalakshmi

... Respondents

PRAYER: Original Petition filed for Letters of Administration under Sections 232 and 276 of Indian Succession Act 1925, ACT XXXIX of 1925 and Order XXV Rule 5 of the Madras High Court Original Side Rules, 1956 for grant of Letters of Administration with the Will dated 29.01.1992 annexed may be granted to the petitioner / Grandson as the beneficiary under the Will of the testator Mrs.A.V.Rajalakshmi to take effect throughout the State of Tamil Nadu.

For Petitioner : Mr.V.G.Suresh Kumar

For Respondents : No appearance.



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ORDER

This Original Petition has been filed for issuance of the Letters of Administration in respect of the Will dated 29.01.1992 executed by late.A.V.Rajalakshmi, who died on 30.08.2003. The original petitioner and respondents 1 and 2 are the children of the testatrix and the third respondent is the grandchild of the testatrix through her daughter. The husband of the testatrix predeceased her. The other two sons of the testatrix died as bachelor. During the pending litigation, the petitioner who was appointed as Executrix under the Will died and the third respondent was transposed as petitioner and the legal heirs of the original petitioner were brought on record as respondents 3 to 5. Therefore, the petitioner and the respondents are only surviving legal heirs of the testatrix and the only beneficiaries under the said will. The respondents inspite of service of notice have remained absent and kept themselves away from this proceedings. Hence, the probate petition was transposed as a letter of administration. The petitioner seeks issuance of Letters of Administration in respect of the properties situated within the jurisdiction of this court.

2. The second petitioner has been examined as PW1. He has produced



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the death certificates of the Testatrix and her husband as Ex.P2 and Ex.P4.

WEB COPY The Original registered will and testament dated 29.01.1992 as Ex.P1. The legal heir certificate of late A.S.Venkataraman, the husband of the testatrix as Ex.P3. The death certificates of sons and one daughter of the testatrix as Ex.P5, Ex.P6 and Ex.P8. On perusal of the Ex.P3, it clearly exhibits that the husband of the testatrix had two daughters and one son. During the pending litigation, one daughter who is the first petitioner died and her legal heirs were brought on record vide order dated 27.08.2024 and the grand child of the testatrix, who is the third respondent transposed as petitioner vide order dated 11.12.2023. Since the first petitioner, the executrix under Will, died, the probate proceeding was transferred as letters of administration. The petitioner and respondents are the children and grandchildren of the testatrix and the only surviving legal heirs of the testatrix late. A.V.Rajalakshmi. The learned counsel for the petitioner submitted the consent affidavits of the respondents.

3. An Advocate Commissioner was appointed to examine the attesting witness of Ex.P1 vide order dated 02.12.2024 and has examined Mr.S.V.Sathiyamoorthy, who is the second attesting witness to the said will as PW2. He has spoken about the execution of the Will by the testatrix and



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its attestation by him.

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4. In view of the above mentioned facts, this Original Petition is ordered and Letters of Administration are granted in favour of the petitioner, in respect of the Will dated 29.01.1992 of the testatrix late.A.V.Rajalakshmi. The petitioner is directed to execute a security bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) in the name of the Assistant Registrar (Original Side) of this Court. The petitioner is further directed to file an inventory of assets and statement of accounts within a period of six months and one year, respectively.

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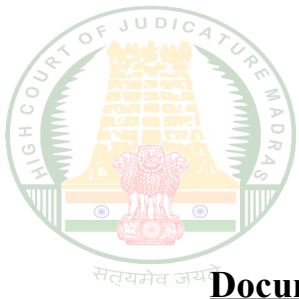
Index :Yes/No

Speaking: Yes/ No

Neutral Citation: Yes/No

Petitioner witness:

P.W.1 —Mr.S.Krishnakumar



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Documents exhibited by the petitioners:

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<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Photocopy of the Will dated 29.01.1992 executed by Mrs.A.V.Rajalakshmi
Ex.P2	Computer generated death certificate of Mrs.A.V.Rajalakshmi
Ex.P3	Computer generated legal heir ship certificate of Mr.A.S.Venkataraman
Ex.P4	Computer generated death certificate of Mr.A.S.Venkataraman
Ex.P5	Computer generated death certificate of Mr.A.V.Subramaniam
Ex.P6	Computer generated death certificate of Mr.Srinivasan
Ex.P7	Photocopy of the registered sale deed dated 28.01.1985 executed in favour of Mrs.A.V.Rajalakshmi
Ex.P8	Computer generated death certificate of Mrs.Prema Satyamurthy
Ex.P9	Affidavit under Section 63 of BSA

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