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O.P.No.19 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **24.06.2025**

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THE HONOURABLE **MR.JUSTICE K.KUMARESH BABU**

**O.P.No.19 of 2024**

Mr.T.Sankar

...Petitioner

VS.

1.Mrs.T.Sivanayagi  
2.Thenmozhi  
3.Sugunaranjitham  
4.Vijayalakshmi  
5.Madhavakumar  
6.Palani  
7.Selvarani

...Respondents

**PRAYER:** Original Petition filed under Section 232 and 276 of Indian Succession Act and under Order XXV Rule 5 of O.S. Rules, Indian Succession Act, 1925, prays that this Hon'ble Court may be pleased to grant Letters of Administration with the Will annexed to the petitioner as the brother's son/legatee/beneficiary named under the Will by the said deceased having effect throughout the State of Tamil Nadu.

For Petitioner : Mr.S.Udayakumar

For Respondents : Mr.C.Sivakumar (For R1 & R2)  
No appearance for R3 to R7

**ORDER**

This Original Petition has been filed for issuance of the Letters of Administration in respect of the Will dated 30.11.1999 executed by late.K.Kalathi Mudaliar, who died on 01.09.2000.

2. The testator is the paternal uncle to the petitioner, through his brother Late.Mr.Thiruvikolam. The petitioner submits that the testator was married to one Mrs.Ganambal who died on 28.06.2002, the couple did not have any issues in the duration of their marriage. Testator had 3 brothers, viz., Late.Mr.Thiruvikolam, Late.Mr.K.Sambandam and Late.Mr.Devarajan, all of whom are now deceased and their legal heirs have been included as the respondents to this petition. The petitioner submits that the testator became the absolute owner of the property mentioned in schedule to the petition *vide* the Partition Deed dated 30.05.1979. Before his death the testator had executed a will on 30.11.1999 registered as Doc.No.167 of 1999 at SRO, Anna Nagar, where he had given the life interest of the subject property to his wife Mrs.Ganambal and bequeathed the property absolutely in favour of the petitioner. The testator had also conceded that he had mortgaged the said immovable property to Mrs.T.Thenmozhi who is the daughter of Late.Mr.Thiruvikolam and the 2<sup>nd</sup> respondent to this Petition. In his Will the



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testator had explicitly stated that the petitioner shall redeem the mortgage and enjoy the absolute ownership of the property after the death of both himself and his wife. The petitioner seeks issuance of Letters of Administration in respect of the property situated within the jurisdiction of this Court.

3. The petitioner had examined himself as PW1, he had marked 17 documents listed as Ex.P1 to Ex.P17 at the foot of the order. He has produced the Original Will dated 30.11.1999 as Ex.P4. The photocopy of the death certificates of the testator and his wife has been marked as Ex.P10 and Ex.P9 respectively. The death certificates of the brothers of the testator, Late.Mr.Thiruvikolam, Late.Mr.K.Sambandam and Late.Mr.Devarajan are marked as Ex.P5, Ex.P6 and Ex.P11 respectively. The legal heirship certificate of Late.Mr.K.Thiruvikolam has been marked as Ex.P13. As an evidence of the title held by the testator a photocopy of the Partition Deed dated 30.05.1979 had been marked as Ex.P1. The Mortgage Deed dated 18.02.1998 executed by the testator in favour of Mrs.T.Thenmozhi has been marked as Ex.P3. The perusal of Ex.P4 substantiates the petitioner's claims and proves that he is the sole beneficiary named by the testator under the said Will dated 30.11.1999.



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4. It is recorded that service of notices upon the respondents has been completed vide the order dated 28.01.2025. The 1<sup>st</sup> and the 2<sup>nd</sup> respondents have expressed their consent to grant the Letters of Administration infavour of the petitioner and their consent affidavits have been marked as Ex.P15 and Ex.P16. The learned counsel to the respondents 1 and 2 have appeared on behalf of them and reiterated their respective consent affidavits. The rest of the respondents 3 to 7 chose to keep themselves away from the proceedings. The general paper publication has been effected and is marked as Ex.P17.

5. The petitioner has examined Mr.E.Sarvesan, who is the second attesting witness to Ex.P4 as PW2. He has spoken about the execution of the Will by the testator and its attestation by him. He has also identified the signatures of both himself and another attesting witness S.Shanmugam in the Ex.P4.

6. The assertions in the petition have been duly proved by adducing oral evidence supported by documents. In these circumstances, the petitioner is entitled to the relief

7. 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 30.11.1999 of the testator Late Mr.K.Kalathi Mudaliar. 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

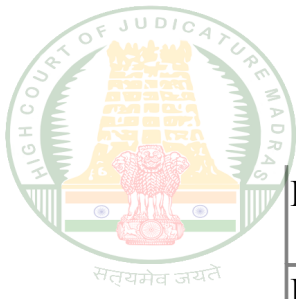
**Petitioner's witness:**

P.W.1 – Mr.T.Sankar

P.W.2 – Mr.E.Sarvesan

**Documents exhibited by the petitioners:**

| Exhibits | Documents                                                                                                                                                                                           |
|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ex.P1    | Photocopy of the partition deed in favour of Kalathi Mudaliar dated 30.05.1979.(Original is produced, compared and returned to the petitioner's counsel)                                            |
| Ex.P2    | Photocopy of the legal heirs certificate of Devarajan dated 25.06.1990.                                                                                                                             |
| Ex.P3    | Photocopy of the deed of first simple mortgage executed by Kalathi Mudaliar in favour of Smt.T.Thenmozhi dated 18.02.1998.(Original is produced, compared and returned to the petitioner's counsel) |
| Ex.P4    | Original Will executed by Kalathi Mudaliar dated 30.11.1999.                                                                                                                                        |



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| Ex.P5  | Printout of the death certificate of K Thiruvirkolam issued on 12.03.2015.                              |
| Ex.P6  | Printout of the death certificate of Sambandham issued on 23.07.2020.                                   |
| Ex.P7  | Printout of the legal heir certificate of K.Sambandham issued by Tahsildar, Aminjikai dated 10.09.2020. |
| Ex.P8  | Printout of the death certificate of S.Shanmugam issued on 27.11.2020.                                  |
| Ex.P9  | Printout of the death certificate of Ganambal issued on 28.09.2021.                                     |
| Ex.P10 | Printout of the death certificate of Kalathi Mudaliar issued on 21.01.2022.                             |
| Ex.P11 | Printout of the death certificate of Devarajan issued on 27.03.2023.                                    |
| Ex.P12 | Printout of the death certificate of Smt.Valliyammal issued on 25.03.2023.                              |
| Ex.P13 | Printout of the legal heir certificate of Late K.Thiruvirkolam dated 07.10.2022.                        |
| Ex.P14 | Printout of the property tax receipt dated 19.11.2022.                                                  |
| Ex.P15 | Consent affidavit of the 1 <sup>st</sup> respondent.                                                    |
| Ex.P16 | Consent affidavit of the 2 <sup>nd</sup> respondent.                                                    |
|        | Affidavit of Section 65 B of Indian Evidence Act is filed for Ex.P5 to Ex.P14.                          |
| Ex.P17 | One issue of Paper publication in Tamil Daily “Malai Malar” dated 19.12.2024.                           |

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**K.KUMARESH BABU, J.**

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