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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

T.O.S No.32 of 2024
(OP.No. 336 of 2023)

S. Avanthikaa

... Plaintiff

Vs

1.S.Dhandapani
2. S.Krishnamurthy
3. S. Radhakrishnan
4.S. Ravishankar

...Caveators/Defendants

Prayer: Testamentary Original Suit filed under Sections 232 and 276 of the Indian Succession Act XXXIX of 1925 for a grant of Letters of Administration. As per order of this court dated 19.12.2023 in OP.No.336 of 2023, the Original Petition has been converted into Testamentary Original Suit No.32 of 2024.

For Plaintiff : M/s.V. Suryanarayana Reddy

J U D G M E N T

The Testamentary Original Suit is filed for grant of Letters of Administration in respect of the last Will and Testament of the deceased Dr.S.Devaki.

2. The brief facts of the case of the plaintiff are as follows:



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(i) The plaintiff has filed OP.No.336 of 2023 against the respondents 1 to 5 for grant of letters of Administration with the Will annexed to the petitioner as adopted daughter. Except 5th respondent, remaining respondents 1 to 4 in OP.No.336 of 2023 have filed caveat petitions against the plaintiff. Pursuant to the same, said Original Petition has been converted into the said suit. Despite several adjournments, the defendants did not choose to file written statement in the suit and hence they were set exparte on 07.11.2024. The same was posted before the Additional Master for recording evidence. Since the 5th respondent/natural father of the petitioner, did not file caveat petition in the OP, his name was given up in the TOS. It is further submitted that the plaintiff has been adopted by the deceased Dr.S.Devaki from R.Sivakumar and Mrs. Revathi vide Adoption Deed dated 18.12.2001. After adoption, Dr.S.Devaki had purchased a residential Flat No.15/4, at Rams Apartment, V Cross Street, United India Colony, Kodambakkam, Chennai 600 024 from one Mr.Jagan@ Mr.T.M. Jaganathan, sale deed dated 23.03.2005 and Dr.S.Devaki had bequeathed the said flat in favour of the plaintiff. Thereafter, Dr.S.Devaki died on 16.04.2021.

(ii) The amount of Assets which are likely to come to the Petitioner's hand does not exceed in the aggregate sum of Rs.34,05,000/-



after deduction and net amount to value the property is at Rs.34,05,000/-

since the funeral, ceremonies and rituals of Late Dr.S.Devaki was performed by her last brother R.Sivakumar.

iii) The petitioner undertakes to duly administer the property and credits of the said deceased Dr.S.Devaki in any way concerning her Will by paying her first debts and then legacies herein bequeathed so far as Assets will extend and to make a full and true inventory thereof and exhibit the same in this Court within six months from the date of grant of Letters of Administration with the Will. Except the petitioner, there is no other Class I legal heir for the deceased Dr.S. Devaki. Hence, this Suit.

3. On the side of the Plaintiff, witnesses P.W.1 and P.W.2 were examined and Ex.P1 and Ex.P11 were marked.

4. This Court heard the learned counsel for the plaintiff, considered his submissions and also perused the materials placed on record.

5. The plaintiff was examined as P.W.1 and she had narrated the averments made in the petition stating that she has filed the main original petition for the grant of Letters of Administration in her favour in respect of



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the Will. Ex.P1 is the Original Adoption Deed dated 18.12.2001; Ex.P2 is the Original Sale Deed in favour of Testator dated 23.03.2005; Ex.P3 is the Original Will executed by the Testator in favour of the petitioner dated 16.09.2010; Ex.P4 is the Death Certificate of the Testator, Ex.P5 is the photocopy of the legal heir certificate of Testator issued by Tahsildar dated 25.05.2022; Ex.P6 is the photocopy of Aadhaar Card of deceased Testator; Ex.P7 is the photocopy of the property tax receipt in the name of the deceased Testator dated 11.06.2022; Ex.P8 is the photocopy of the CMWSSB receipts for water charges and tax in the name of the deceased Testator dated 07.12.2022; Ex.P9 is the photocopy of the Electricity Bill in the name of the deceased Testator dated 14.11.2022; Ex.P10 is the photocopy of the Aadhaar Card of the plaintiff; Ex.P11 is the served copy of caveat petitions filed by the defendants against the plaintiff; Ex.P12 is the Certificate U/s 65-B of Indian Evidence Act, 1872.

6. N.Saradha/PW2 deposed that she signed the Will as a first attesting witness and the same was marked as Ex.P13. She also deposed that Vedha, who is a friend to Dr.S.Devaki, signed as a 2nd attesting witness in the Will in front of her. She deposed that the deceased was of sound and disposing state of mind and health while signing the Will. She also deposed



that she signed as a first attesting witness before the Sub-Registrar,
Kodambakkam, Chennai.

7. Considering the evidences of P.W.1 & P.W.2 and the documents filed on behalf of the plaintiff is not only proved the execution, but also the attestation of the Will and also taking note of the fact that the PW2/1st attesting witness knows the 2nd attesting witness as a friend of the Testator, and the defendant was set exparte and there is no rebuttal evidence, this Court is of the view that the plaintiff is entitled for the issuance of Letters of Administration in her favour.

8. Accordingly, this Testamentary Original Suit is decreed as prayed for. Issue Letters of Administration in respect of the Will dated 16.09.2010 in favour of the plaintiff. The plaintiff is directed to duly administer the properties and credits of the deceased. The plaintiff is also 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 plaintiff is further directed to render true and correct accounts once in a year. Considering the relationship between the parties, there shall be no order as to costs.



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Index : Yes/No
Speaking/Non-speaking order
gv

A.A.NAKKIRAN,J.

gv

Witnesses examined on the side of the plaintiff:

P.W.1. - Mrs.S.Avanthikaa

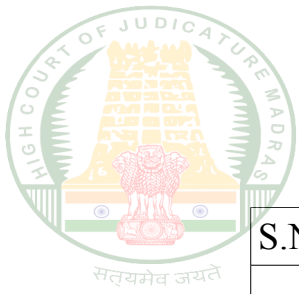
P.W.2 - Mrs. Saradha

Exhibits produced on the side of the plaintiff:



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S.No.	Exhibits	Date	Description
1.	P-1	18.12.2001	Adoption Deed entered between R.Sivakumar, Revathi and Dr.S.Devaki (Doc.No.1 of list of documents)
2.	P-2	23.03.2005	Sale deed in favour of Testator viz., Dr.S. Devaki in respect of petition property (Doc.No.3 of list of documents)
3.	P-3	16.09.2010	Will executed by Dr.S.Devaki (The Testator) in favour of the petitioner Mrs.S.Avanthikaa (Doc.No.2 of list of documents)
4.	P-4	07.05.2021	Death Certificate of Testator Dr.S.Devaki issued by Greater Chennai Corporation (Doc.No.4 of list of documents)
5.	P-5	25.05.2022	Legal heir Certificate of Dr.S.Devaki issued by Tahsildar, Aynavaram (Doc.No.5 of list documents)
6.	P-6		Aadhar Card of deceased Dr.S.Devaki (Doc.No.7 of list of documents)
7.	P-7	11.06.2022	Property Tax Receipt in the name of deceased Dr.S.Devaki(Doc.No.8 of list of documents)
8.	P-8	07.12.2022	CMWSSB receipts in the name of deceased Dr.S.Devaki (Doc.No.9 of list of documents)
9.	P-9	14.11.2022	Electricity Bill in the name of deceased Dr.S.Devaki (Doc.No.10 of list of documents)
10	P-10		Aadhaar Card of



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S.No.	Exhibits	Date	Description
			Mrs.S.Avanthikaa (Doc.No.11 of list of documents)
11	P-11	Aug, 2023	Caveat Petitions filed by the defendants against the plaintiff.
12	P-12	14.11.2022	Certificate U/s.65-B of Indian Evidence Act, 1872

gv

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