



WEB COPY

OP No. 829 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-11-2025

CORAM

THE HONOURABLE MR.JUSTICE P. DHANABAL

OP No. 829 of 2024

1. K.Palaniammal and 2 others
W/o. Krishnan, Old No.32/4, New
No.90, Vanniyar Street, Kodambakkam,
Chennai 600 024.

2. K.Bhuvaneswari
W/o. T.Sridhar, Old No.32/4, New
No.90, Vanniyar Street, Kodambakkam,
Chennai 600 024.

3. K.Sulochana
W/o. K.Sadhasivam, No.31/71,
Vanniyar Street, Kodambakkam,
Chennai 600 024.

Petitioner(s)

Vs

1. No Respondent
NIL

Respondent(s)

PRAYER: _Original Petition has been filed under Sections 232 and 276 of the Indian Succession Act and Order XXV Rule 5 of Original Side Rules praying to grant Letters of Administration with Will annexed to the petitioners as the daughter and grand daughters, legatees under the Will of the said deceased having effect limited to the State of Tamil Nadu. Gross Amount of



Rs.50,00,000/- and Net Amount of Rs.50,00,000/- Suc.duty of Rs.25,000/- paid on 15.04.2025 by e-C/F D.No.15144/2025.

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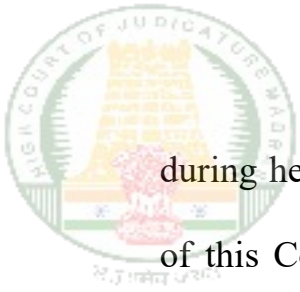
For Petitioner(s): K.Surendar

ORDER

This petition has been filed under Section 232 and 276 of the Indian Succession Act and under Order XXV and Rules 5 of Original Side Rules to grant Letters of Administration to the petitioners to the estates and credits of the deceased having effect limited to the State of Tamil Nadu.

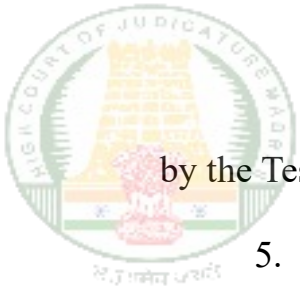
2. After filing of this petition, this Court directed the petitioners to effect paper publication in any one of the issue of Tamil Daily and also in English daily and the paper publication was also effected and there is no any objection from any party. Thereafter, the case was posted for recording evidence and the evidence was also recorded. On the side of the petitioners, PW1 and PW2 were examined and Ex.P.1 to Ex.P8 were marked.

3. According to the petitioners, one Mrs. S. Pattammal is the mother of the 1st petitioner and grandmother of the petitioners 2 and 3. The said Mrs. S. Pattammal died on 23.11.1993 leaving behind her only daughter Mrs. K. Palaniammal, the 1st petitioner herein, as her legal heir. The husband of the deceased Mrs. S. Pattammal predeceased her. The deceased Mrs. S. Pattammal,



during her lifetime, had possessed properties in Chennai within the jurisdiction of this Court. The last Will and Testament executed by the Testatrix Mrs. S. Pattammal is dated 03.12.1990 in the presence of two attesting witnesses namely Mr. Natesan and Mr. Lakshmanan. The deceased bequeathed the schedule mentioned property to and in favour of the petitioners herein and the Testatrix had cancelled her earlier Will dated 11.07.1982. As per the Will dated 03.12.1990, there is no executor. Since the above said two attesting witnesses passed away, the petitioners have filed a third party affidavit of Mrs. Kamala to prove the execution of the Will and signature of the deceased Mrs. S. Pattammal. The petitioners came to know about the Will dated 03.12.1990 executed by Mrs. S. Pattammal only on 09.01.2023 and therefore, the petitioners have now come forward with this petition. There is no other next of kin or other persons interested to be impleaded in the present petition. The amount of assets which are likely to come to the petitioners' hands does not exceed in the aggregate the sum of Rs.50,00,000/-.

4. On the side of the petitioners, PW1 and PW2 were examined and Ex.P.1 to Ex.P.8 were marked. The 3rd petitioner herein, was examined as PW1. She has deposed that she is the grand daughter of the deceased and she reiterated the petition averments and further stated that the deceased executed a Will dated 03.12.1990 in the presence of the attesting witnesses. She further stated that the said attesting witnesses are no more and therefore, a third party namely Mr. T. Sridhar, who is well acquainted about the execution of the Will



by the Testatrix and about the attestation, is examined as PW2.

5. The registered Will dated 03.12.1990 is a 35 years old Will, which was executed by the deceased Mrs. S. Pattammal in the presence of two attesting witnesses. The original Will has been marked as Ex.P.1 by PW1. Since the Will is a 35 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 proponent, 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"*.

6. In this case, one Mr. T. Sridhar, who is acquainted with the signatures of both the attestors has been examined as PW2. He has deposed that he is well acquainted and knew the testatrix Mrs. S. Pattammal and the Testatrix had



executed a Will dated 03.12.1990 and that Mr. C. Natesan and Mr. T.T. Lakshmanan have signed in the said Will as attesting witness. He has also stated about the left thumb impression of the Testatrix and the signatures of two attestors in the Will. A perusal of evidences of PW1 and PW2 and Ex.P.1 to Ex.P.8 revealed that the petitioners are the legal heirs of the deceased and no any objection has been raised by any other party to grant letter of administration to the petitioners. The petitioners, through the evidences and documents, have amply proved the execution of Will. Therefore, the petitioners are entitled to the relief as prayed for in the petition.

7. Therefore, this Original Petition is *allowed* and Letter of Administration, to the estates and credits of the deceased Mrs. S. Pattammal in favour of the petitioners, is granted.

8. Issue Letters of Administration in favour of the petitioners. The petitioners are directed to duly administer the properties and credits of the deceased more fully described in the schedule. The petitioners are also 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.

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Index:Yes/No

Speaking/Non-speaking order



Internet: Yes

Neutral Citation: Yes/No

APPENDIX:**List of Petitioner side Witnesses:**

PW1 : Mrs. K. Sulochana

PW2 : Mr. T. Sridhar

List of Petitioner side Documents:

Exhibit No.	Date	Description of Documents.
Ex.P.1.	03.12.1990	Original Will executed by Pattammal in Doc. No.198 of 1990, SRO Kodambakkam.
Ex.P.2	09.07.1969	Photocopy of the Sale Deed in Doc. No.1948 of 1969, SRO, Kodambakkam.
Ex.P.3	11.07.1982	Photocopy of the Will Deed (cancelled) in Doc. No.57 of 1982, SRO, Kodambakkam,.
Ex.P.4.	10.01.2000	Photocopy of the Death Certificate of S. Pattammal.
Ex.P.5	10.01.2023	Affidavit of assets.
Ex.P.6	20.06.2025 28.06.2025	Copy of the paper publications issued in Tamil daily 'Dinakural' and English daily 'Southern Mail'.
Ex.P.7	16.02.1994	Legal Heirship Certificate of S. Pattammal.
Ex.P.8	-	Photocopy of the Aadhar card of PW2.

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