



O.P.No.493 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **07.08.2025**

CORAM

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

O.P.No.493 of 2022

1.S.Sankari (Died)

2.S.Devi

3.S.Balamurugan

4.V.Prashvitha (Minor)

Rep. By legal Guardian Tmt.S.Sumathy & G.Subramani
(appointed as per order dated 11.07.2004 in O.P.No.92 of 2024.)

[4th petitioner brought on record as per order dated
18.09.2024 in A.No.4781 of 2024 as legal heir of
deceased 1st petitioner.]

...Petitioners

vs.

1.G.Vasanthakumari

2.G.Kalaichelvi

3.G.Subramani

...Respondents

PRAYER: Original Petition filed under Section 232, 244 and 276 of the Indian Succession Act, (Act XXXIX of 1925) read with Order XXV, Rule 5 of the Original Side Rules praying to grant Letters of Administration with the Will annexed of the properties and credits of deceased, to the 2nd and 3rd petitioners as legatees, grand-children/ beneficiaries and to the legal guardian of the 4th petitioner under the Will of deceased limited to the State of Tamil Nadu.



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For Petitioners : Mr.B.Manivannan

For Respondents : Ms.S.Divya for R1 to R4

ORDER

This Original Petition has been filed for issuance of the Letters of Administration in respect of the Will dated 25.08.1973 executed by Mrs.G.Kothainayaki, who died on 08.12.1974. The petitioners 1 to 3 are the grandchildren of the testatrix. The 1st petitioner who is the granddaughter of the testatrix had passed away and her minor child represented by the legal guardians appointed by the Hon'ble court in Original Petition O.P.No.92 of 2024 *vide* order 11.07.2024, has been brought on record as the legal heir of the 1st petitioner and has been impleaded as 4th petitioner in the present petition *vide* order dated 18.09.2024 in Application No.4758 of 2024.

2. The petitioners submit that the testatrix was married to one Mr.J.Gopalakrishnan and the couple had begotten the respondents 1 to 3 along with one Mr.G.Elavalagan as their children out of the wedlock. The petitioners 1 to 3 are the grandchildren of the testatrix through the 3rd respondent, whereas the 1st petitioner died and her minor daughter represented by her legal guardians was impleaded as the 4th petitioner as stated supra. The petitioners asserts that the



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testatrix before her death had executed a Will on 25.08.1973, registered as Document No.25 of 1973 in SRO, Sowcarpet, through which she bequeathed an immovable property morefully described in the will, which was absolutely owned by her vide the Sale Deed dated 19.04.1973, registered as Document No.274 of 1973 in SRO, Sowcarpet.

3. In pursuant to the aforesaid Will the testatrix had granted the life interest in the immovable property in favour of her husband Mr.J.Gopalakrishnan and had appointed him as the executor of the Will, whereas the appointed executor died without proving the said Will and the petitioner further state that the husband of the testatrix remarried Mrs.Yasotha, after the demise of the testatrix. In accordance to the above said Will executed by the testatrix, upon the demise of Late.Mr.Gopalakrishnan, the husband of the testatrix the life interest devolves upon her two sons namely G.Elavalagan and G.Subramani who is the 3rd respondent to this petition, for their respective lifetimes without any alienation rights. The Will further reflects that after the lifetime of the aforesaid sons of the testatrix, the immovable property absolutely devolves equally upon the children of G.Elavalagan and G.Subramani. The petitioners asserts that the husband of the testatrix who held the life interest died on 31.10.1993 and G.Elavalagan who is the son of the testatrix and one of the life interest beneficiary, was incapacitated



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and died as a bachelor on 11.03.2011 whereas the other son and the another life interest beneficiary G.Subramani had begotten the petitioners 1 to 3 as his children, thereby making the petitioners 1 to 3 as the absolute beneficiaries of the Will. The petitioners hereby contend that since the 1st petitioner died the petitioners 2 and 3 along with legal heir of the deceased 1st petitioner namely the 4th petitioner represented by her legal guardian are the absolute beneficiaries of the Will. Therefore the petitioners 2 to 3 along the 4th petitioner represented by her legal guardian seeks issuance of Letters of Administration in respect of the properties situated within the jurisdiction of this court.

4. The third petitioner has examined himself as PW1 and he has produced 11 documents to support his deposition which are listed as Ex.P1 to Ex.P8 and Ex.C1 to Ex.C3 at the foot of the order. The original Will executed by the testatrix has been marked as Ex.P1. The photocopy of the Sale Deed executed in favour of the testatrix has been marked as Ex.P2. The photocopy of the death certificate of the testatrix has been marked as Ex.P4. The photocopy of the marriage invitation between the husband of the testatrix and one Mrs.Yasotha has been marked as Ex.P5. The photocopy of the legal heirship certificate of the husband of the testatrix has been marked as Ex.P6. The online copy of the death certificate of



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Mr.G.Elavalagan has been marked as Ex.P8. Upon the detailed examination of the Ex.P1 it can be substantiated that the petitioners 2 and 3 along with the 4th petitioner who is the legal heir of the deceased 1st petitioner, are the absolute beneficiaries of the Will. The general paper publication has been effected and the same has been marked as Ex.C1 and Ex.C2, no objections have been received for the same.

5. The petitioner has examined Mr.Vasanthakumari, who is the second attesting witness to the said Will and also the 1st respondent to this petition as PW2. She has spoken about the execution of the Will by the testatrix, her mother herein and its attestation by her along with one Mr.P.K.Sanjeevi, who is the other attesting to the Will.

6. The respondents 1 to 3 have expressed their consent to grant the Letters of Administration in favour of the petitioners and their respective consent affidavits are marked as Ex.C3 series. The learned counsel for the respondents 1 to 3 had appeared on behalf of them and had reiterated the respective consent affidavits of the respondents.

7. The assertions in the petition have been duly proved by adducing oral



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evidence supported by documents. In these circumstances, the petitioners are entitled to the relief

8. In view of the above mentioned facts, this Original Petition is ordered and Letters of Administration are granted in favour of the petitioners 2 and 3 and the legal guardian of the 4th petitioner, in respect of the Will dated 25.08.1973 of the testatrix Late.Mrs.G.Kothainayaki. The petitioners are 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 petitioners are 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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Petitioner's witness:

P.W.1 – Mr.S.Balamurugan

P.W.2 – Ms.Vasanthamumari

Documents exhibited by the petitioners:

Exhibits	Documents
Ex.P1	Original Will executed by Kotainayaki / Testator dated 07.12.1988.
Ex.P2	Photocopy of the sale deed executed by G.Ranganatha Reddy and others in favour of G.Kothainayaki dated 19.04.1973. (Compared with original and returned)
Ex.P3	Printout of water tax receipt issued by CMWSSB dated 17.03.2020.
Ex.P4	Photocopy of death certificate relating to G.Kothainayaki/ Testatrix dated 31.01.1975.
Ex.P5	Photocopy of marriage invitation between testator and Yasotha/ 1 st respondent dated 12.05.1975.
Ex.P6	Photocopy of legal heirship certificate relating to J.Gopalakrishnan/ Testator dated 13.12.1993.
Ex.P7	Online copy of death certificate relating to J.Gopalakrishnan dated 16.03.2020.
Ex.P8	Online copy of death certificate relating to G.Elavazhagan dated 16.03.2020.
Ex.C1	Paper publication in Tamil News Paper Makkal Kural dated 25.05.2023.
Ex.C2	Paper publication in English New Paper Trinity Mirror dated 01.06.2023.
Ex.C3	Consent affidavit (3 Nos.) for R1 to R3.

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