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O.P.No.489 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.489 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.Yasotha

2.G.Vasanthakumari

3.G.Kalaichelvi

4.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 07.12.1988 executed by Mr.J.Gopalakrishnan, who died on 31.10.1993. The petitioners 1 to 3 are grandchildren of the testator through his son Mr.G.Subramani, the 4th respondent herein. 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. The respondents 1 to 4 are the legal heirs of the testator.

2. The petitioners submit that the testator was married to one Mrs.G.Kothainayaki and had begotten the respondents 2 to 4 along with one Mr.G.Elavalagan as his children out of the wedlock. The above said Mrs.G.Kothainayaki predeceased the testator on 08.12.1974. Consequently the



testator got remarried to the 1st respondent on 29.05.1975. The petitioners further submits that the testator died on 31.10.1993 and his son, Mr.G.Elavalagan who was incapacitated subsequently died as a bachelor on 11.03.2011. The petitioners asserts that the testator prior to his demise had executed a Will, in which the testator had described an immovable property absolutely owned by him and had granted a life interest over the same in favour of his wife, the 1st respondent herein.

3.In pursuant to the afore said Will, the testator had stipulated that after the death of his 2nd wife, the 1st respondent herein, the life interest over the said immovable property would devolve upon his children, if any, born to him out of his wedlock with the 1st respondent and on the account of no such issues and after the demise of the 1st respondent, the life interest of immovable property is granted in favour of Mr.G.Subramani, one of the sons of the testator through his 1st marriage and also the 4th respondent herein. The above said Will further stipulates that after the lifetime of the 4th respondent, his children are would become the absolute beneficiaries for the immovable property described in the Will. The petitioners submit that the testator and the 1st respondent did not have any issues out of their wedlock. Therefore petitioners 1 to 3, who are the children of



Mr.G.Subramani, are the absolute beneficiaries of the Will. The testator had appointed his 2nd wife, the 1st respondent herein as the executor of the Will, but the said executor is not inclined in proving the Will dated 07.12.1988. Since the 1st petitioner died and her minor child represented by the court appointed legal guardian, has been impleaded as the 4th petitioner, the petitioners 2 to 3 along with the legal guardian appointed to the 4th petitioner seeks issuance of Letters of Administration in respect of the properties mentioned in the Will which are situated within the jurisdiction of this court.

4. The third petitioner has examined himself as PW1, he had produced 12 documents to support his deposition which are listed as Ex.P1 to Ex.P9 and Ex.C1 to Ex.C3 at the foot of the order. The original Will executed by the testator has been marked as Ex.P1. As the evidence of the title of the immovable property held by the testator, the photocopy of the Sale Deed executed in favour of the testator has been marked as Ex.P2. The online printout of the death certificate of the testator has been marked as Ex.P4. The photocopy of the death certificate of Mrs.G.Kothainayaki, the 1st wife of the testator has been marked as Ex.P5. The photocopy of the marriage invitation between the testator and the 1st respondent has been marked as Ex.P8. The downloaded copy of the order passed in

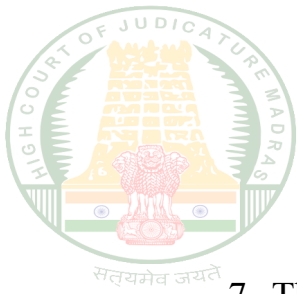


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O.P.No.92 of 2024 has been marked as Ex.P9. The photocopy of the legal heirship certificate testator has been marked as Ex.P7 and upon the perusal of the same, establishes that the respondents 1 to 4 are the legal heirs of the testator. The detailed examination of the Ex.P1 unequivocally establishes that the petitioners 1 to 3 are the absolute beneficiaries and whereas the 1st and the 4th respondents hold the life interest in the immovable property mentioned in the Will. The general paper publications had been effected which are marked as Ex.C1 and Ex.C2 and no objection had been received for the same.

5. The petitioner has examined Mr.Vasanthakumari, who is the second respondent as PW2 as allowed in the Application No.2983 of 2025 vide order dated 08.07.2025. She has spoken about the execution of the Will by the testator and has identified the signature of one Mr.P.K.Sanjeevi who is the second attesting witness to the Will executed by the testator.

6. The respondents 1 to 4 have expressed their consent to grant the Letters of Administration in favour of the petitioners and their respective consent affidavits have been marked as Ex.C3 series. The learned counsel of the respondents 1 to 4 has appeared on behalf of them and reiterated the respective consent affidavits of the respondents.



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7. The assertions in the petition have been duly proved by adducing oral 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 2nd and 3rd petitioners and the legal guardian of the 4th petitioner, in respect of the Will dated 07.12.1988 of the testator Late.Mr.J.Gopalakrishnan. 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 J.Gopalakrishnan / Testator dated 07.12.1988.
Ex.P2	Photocopy of the sale deed executed by the Madras N.G.Os. Co Building Society Ltd., in favour of J.Gopalakrishnan dated 11.11.1964.
Ex.P3	Printout of property tax bill issued by Greater Chennai Corporation dated 12.03.2020.
Ex.P4	Online printout of the death certificate of J.Gopalakrishnan / Testator dated 16.03.2020.
Ex.P5	Photocopy of death certificate relating to G.Kothainayaki/ wife of Testator dated 03.01.1975.
Ex.P6	Printout of death certificate relating to G.Elavazhagan son of Testtor dated 16.03.2020.
Ex.P7	Photocopy of legal heirship certificate relating to J.Gopalakrishnan/ Testator dated 13.12.1993. (Compared with original and returned).
Ex.P8	Photocopy of marriage invitation between testator and Yasotha/ 1 st respondent dated 12.05.1975. (Compared with original and returned).
Ex.P9	Downloaded copy of order passed in O.P.No.92 of 2024 filed under Guardian and Wards Act dated 11.07.2024.
Ex.C1	Paper publication in Tamil News Paper Makkal Kural dated 20.03.2023.



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Ex.C2	Paper publication in English New Paper Trinity Mirror dated 01.03.2023.
Ex.C3	Consent affidavit (4 Nos.) for R1 to R4.

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