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O.P.No.227 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **20.02.2025**

CORAM

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

O.P.No.227 of 2023

Mrs.P.Thangamani

... Petitioner

Vs

Mrs.S.Marystella

... Respondent

PRAYER: Original Petition filed for Letters of Administration under Sections 232 and 276 of Indian Succession Act XXXIX of 1925, read with Order XXV Rule 5 of the Madras High Court Original Side Rules, 1956 prays that Letters of Administration with Will annexed to the properties and credits of deceased may be granted to petitioner as niece/sole beneficiary under the Will of the said deceased having effect throughout the State of Tamil Nadu.

For Petitioner : Mr.D.Sasikumaran

For Respondents : No Appearance

ORDER

This Original Petition has been filed for issuance of the Letters of Administration in respect of the Will dated 24.12.2019 executed by late



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S.Joseph, who died on 07.01.2020. The petitioner is the niece of the testator through his predeceased sister. The respondent is the sister of the testator.

The petitioner is the beneficiary under the said will. The respondent inspite of service of notice has remained absent and kept herself away from this proceedings. The petitioner seeks issuance of Letters of Administration in respect of the properties situated within the jurisdiction of this court.

2. The petitioner has examined herself as PW1. She has produced the death certificates of the Testator and testator wife late.J.Anantha as Ex.P2 and Ex.P3. The Original unregistered will and testament dated 24.12.2019 as Ex.P5. The paper publications were marked as Ex.P7 and Ex.P8. No objections have been filed by any person.

3. The petitioner has examined Mr.Parthasarathy, who is the first attesting witness to the said Will as PW2. He has spoken about the execution of the Will by the testator and its attestation by him and his affidavit is marked as Ex.P10.

4.I have considered the submissions made by the learned counsel appearing on the petitioner side and perused the materials available on

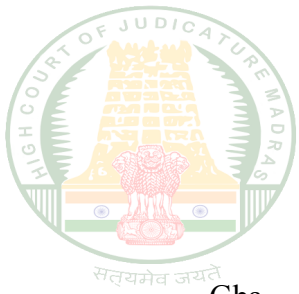


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5. An averment had been made in the petition that the deceased had adopted one Ms.Stephne and that after the demise of the deceased, two named individuals had taken back the custody of the child. The proof affidavit filed by the petitioner had also spoken about the same. Further, except for a submission made in the Will that the petitioner is the daughter of the sister of the deceased, the petitioner had not produced any document whatsoever to substantiate the said relationship between the petitioner and the deceased.

6. Having admitted that the deceased had adopted a girl child, the non-joinder of the minor child to this petition coupled with the fact that the Ex.P5 is an unregistered Will and since the petitioner had also not produced any documents to substantiate the relationship between the petitioner and the deceased, this Court is unable to comprehend the truthfulness in the Will.

7. For the aforesaid reasons, this O.P. fails and is accordingly dismissed.



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Index :Yes/No

Speaking: Yes/ No

Neutral Citation: Yes/No

Petitioner's witness:

P.W.1 —Mrs.Thangamani

P.W.2 – Mr.Parthasarathy

Documents exhibited by the petitioners:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Photocopy of the sale deed dated 25.09.2018 executed in favour of Mr.s.Joseph and Mrs.J.Anantha (Compared with the original)
Ex.P2	Computer generated death certificate of Mrs.J.Anantha
Ex.P3	Computer generated death certificate of Mr.S.Joseph
Ex.P4	Photocopy of PW-1's Aadhaar Card (Compared with the original)
Ex.P5	Original unregistered Will and Testament dated 24.12.2019 executed to Mr.S.Joseph
Ex.P6	Affidavit of assets showing the net value of the estate as Rs.30,00,000/-
Ex.P7	Copy of the paper publication effected in one issue of Tamil daily “Maalai Thamizhagam”, dated 26.06.2024
Ex.P8	Copy of the paper publication effected in one issue of English daily “Trinity Mirror” dated 03.07.2024.
Ex.P9	Certificate under Section 65B of the Indian evidence Act, 1872
Ex.P10	Affidavit of PW-2
Ex.P11	Photocopy of PW-2's Aadhaar Card (Compared with the original)



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