



WEB COPY



T.O.S.No.24 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 20.03.2025

CORAM:

THE HON'BLE MR.JUSTICE A.A.NAKKIRAN

T.O.S No.24 of 2023

(O.P No.230 of 2022)

K.Senthil

.. Plaintiff

..Vs.

Dr.R.Revathi

.. Defendant

Prayer: Original Petition has been filed under Sections 232 and 276 of the Indian Succession Act XXXIX of 1925 and Order XXV Rule 5 of the High Court Original Side Rules, for a grant of Letters of Administration in respect of the last Will and Testament of the deceased N.Ramachandran. Against this petition, a Caveat and Supporting affidavit were filed by the Caveator. As per order of this Court, the Original Petition No.230 of 2022 was converted into Testamentary Original Suit No.24 of 2023.

For Plaintiff : Mr.C.Shankar

For Defendant : Set Exparte



T.O.S.No.24 of 2023

WEB COPY

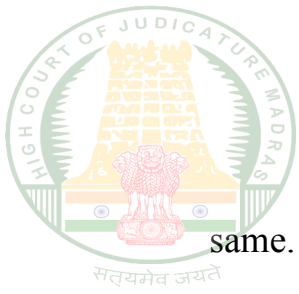
JUDGMENT

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

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

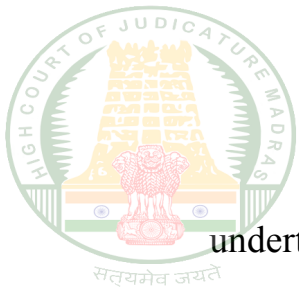
The Testator deceased N.Ramachandran was the grandfather of the petitioner/plaintiff and father of the respondents 1 & 2 in O.P, who had executed a Will on 17.11.2011 in the presence of attesting witness whose names appear at the foot thereof and registered the Will on the same date as document no.77 of 2011 before the Sub Registrar Office at Sembium and subsequently, the testator died on 16.10.2019 at his ordinary residence No.B-61, 70 Feet Road, Periyar Nagar, Chennai-600 082 where he was in possession of the Will property till his death. Originally, a vacant land was allotted in favour of Testator N.Ramachandran by Periyar Nagar Government Employee Co-operative Housing Society and thereafter, he had constructed ground and first floor in the said land and he was enjoying the

2/11



T.O.S.No.24 of 2023

same. In the meantime, on 16.10.1992, the said Society had transferred the ownership in his favour through a deed of conveyance and he was enjoying the possession of the schedule mentioned property situated at No.B61, 70 Feet Road, Periyar Nagar, Chennai District, Purasaiwakkam Perambur Taluk, Village No.66, Peravallur Village, T.S.No.249, Block No.32D and T.S No.2, Block No.37 measuring about total extent of 3600 sq.ft. land and building till his death. The testator had already executed a Will on 25.06.1998 and thereafter, he executed this last Will on 17.11.2011 by revoking his earlier Will. The petitioner is the beneficiary under the Will and no Executor was appointed in the Will. The amount of the assets which are likely to come into the petitioner's hand does not exceed in the aggregate the sum of Rs.72,00,000/- and the net amount of the said assets, after deducting all items which the petitioner is by law allowed to deduct, is only of the value of Rs.71,90,000/-. The attesting witnesses are alive as on date and submitted an affidavit before this Court. No application has been made to any District Court or Delegate or to any other High Court for probate of any Will of the said deceased or Letters of Administration with or without the Will annexed to his property and credits. The petitioner hereby



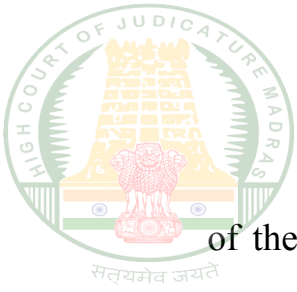
T.O.S.No.24 of 2023

WEB COPY

undertake to duly administer the property and credits of late N.Ramachandran, deceased, in any way concerning the Will by paying first his debts and then the legacies therein bequeathed so far as the assets will extend and to make a full and true inventory thereof and exhibit the same in this regard within six months from the date of Letters of Administration with the Will annexed to the petitioner and also to render to this Court a true account of the said property and credits within one year from the said date. Hence, he prayed to grant Letters of Administration with the Will.

3. The brief averments made in the written statement filed by the defendant are as follows:

All the allegations contained in the plaint are denied except those that are specifically admitted herein. So far as the defendant share in the alleged Will is concerned, 275 sq.ft. out of total land admeasuring to an extent of 3600 sq.ft. The alleged Will dated 17.11.2011 has been obtained by undue influence and coercion by the plaintiff and his father R.Kumar. The testator was cared by himself and the plaintiff and his father never cared him. Her father was a pensioner and has some savings in his bank account. The father



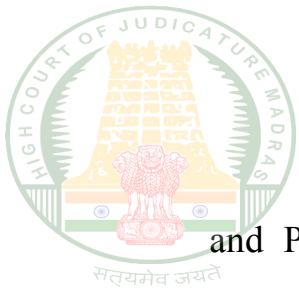
T.O.S.No.24 of 2023

of the defendant had nominated the defendant as her nominee of his bank account. After the death of her father, a major amount was taken by the plaintiff and his father without informing her as a nominee. Her father had never executed the Will. The alleged Will is not a true and genuine one. The plaintiff and his father has created the alleged Will by taking advantage of the testator's age related mental infirmity, health condition and by exerting pressure and coercion as against her father. The attesting witnesses are also well acquainted only to the plaintiff and his father and not to the testator. In the Will, her father clearly stated that the property cannot be sold during the life time of the defendant's brother namely Kumar. Hence this original petition is liable to be dismissed with costs.

4. Based on the aforesaid pleadings, the following issues are framed for trial:

- 1) Whether the Will dated 17.11.2011 is true and genuine?
- 2) To what relief?

5. On the side of the plaintiff, two witnesses were examined as PW1

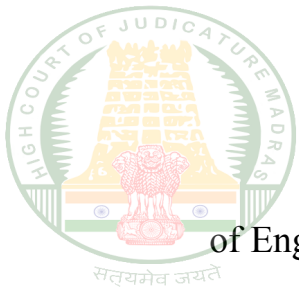


T.O.S.No.24 of 2023

and PW2 and they were also cross examined by the defendants. After completion of plaintiff's side evidence, the case was posted for defendant's side evidence. But, inspite of several opportunities, the defendant has not chosen to appear before this Court and hence, she was set exparte on 27.02.2025.

6. Heard the learned counsel for the plaintiff and perused the records.

7. The plaintiff examined himself as P.W.1 and he had narrated the averments made in the petition stating that the plaintiff has filed the main original petition for the grant of Letters of Administration in his favour in respect of the Last Will and Testament executed by the testator on 17.11.2011. To prove the same, the original Will is marked as Ex.P1. Ex.P3 is the computer generated copy of death certificate of the deceased N.Ramachandran and the same has been filed to prove that the deceased died on 16.10.2019. Ex.P4 is the computer generated copy of legal heir certificate of N.Ramachandran. Ex.P5 is the paper publication in one issue of Tamil daily "Makkal Kural". Ex.P6 is the paper publication in one issue



T.O.S.No.24 of 2023

of English daily "Trinity Mirror" dated 20.09.2022.

WEB COPY

8. One of the attestors of the Will dated 17.11.2011 viz., S.Syed Abdul Rahman was examined as P.W.2. In his evidence, P.W.2 has stated that he is the second attesting witness in the Will Ex.P1 and the testator signed the Will in his presence and in the presence of first attesting witness viz., Balakrishnan. While executing the Will, the testator was in a sound and disposing state of mind and in his presence, the attesting witnesses subscribed their signature in the Will. The evidence of P.W.2 has not only proved the execution, but also attestation of the Will.

9. Considering the fact that the evidence of PW.1 and PW.2 and the documents filed on behalf of the plaintiff remain unchallenged, this Court is of the view that the plaintiff has proved his case and entitled for the issuance of Letters of Administration in his favour.

10. Accordingly, this Testamentary Original Suit is decreed as prayed for. Issue Letters of Administration in favour of the plaintiff. The plaintiff is



T.O.S.No.24 of 2023

WEB.COM

directed to duly administer the properties and credits of the deceased more fully described in the schedule. 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.

20.03.2025

Index : Yes/No

Internet : Yes

Speaking/Non-speaking order

uma

Witnesses examined on the side of the plaintiff:

P.W.1. - K.Senthil

P.W.2 - S.Syed Abdul Rahman

Exhibits produced on the side of the plaintiff:

Ex.P1 17.11.2011 Original Will executed by the deceased
N.Ramachandran

Ex.P2 30.01.2011 Computer generated copy of the death certificate
of R.Kanthimathi

Ex.P3 16.10.2019 Computer generated copy of death certificate of
N.Ramachandran

Ex.P4 01.02.2021 Computer generated copy of legal heir certificate
of N.Ramachandran



T.O.S.No.24 of 2023

Ex.P5 13.09.2022

Paper publication in Tamil newspaper
"Makkal Kural"

WEB COPY

Ex.P6 20.09.2022

Paper publication in English newspaper
"Trinity Mirror"

Witnesses & documents on the side of the defendants:

Nil.

20.03.2025



WEB COPY



T.O.S.No.24 of 2023

A.A.NAKKIRAN,J

uma

T.O.S.No.24 of 2023

(O.P No.230 of 2022)



WEB COPY



T.O.S.No.24 of 2023

20.03.2025