



O.P. No.124 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2025

CORAM :

THE HONOURABLE MR.JUSTICE P.DHANABAL

O.P. No.124 of 2025

K. Rajendran S/o. Late Sri Kannu Chettiar ... Petitioner

Vs

V. Jayaramachandran S/o. Varadarajulu ... Respondent

PRAYER:Original Petition is filed under Section 232 and 276 of the Indian Succession Act of 1925 read with Order XXV Rule 5 of the Original Side Rules praying to grant letters of Administration to the Will annexed with the petition, as nephew / beneficiary of the deceased T. Audilakshmiammal having effect limited to the State of Tamil Nadu.

For Petitioner : Mr. R. Durairaj

For Respondent : Notice served – no appearance.

ORDER

This petition has been filed under Section 232 and 276 of the Indian Succession Act to grant Letters of Administration to the petitioner to the



O.P. No.124 of 2025

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 petitioner 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 to PW3 were examined and Ex.P.1 to Ex.P.11 were marked.

3. According to the petitioner, one T. Audilakshmiammal is the sister of his mother and she died on 16.12.1988 and she had executed her last Will and Testament dated 18.05.1985 bequeathing her land and building more fully described in the schedule, in presence of two witnesses namely K. Varadarajalu and Saraswathiammal, in favour of her sister's son, who is the petitioner herein. The said T. Audilakshmiammal had appointed the respondent herein as executor under the Will. The respondent has filed his

Page No.2 of 9



O.P. No.124 of 2025

affidavit to relinquish his right as executor in the said Will and he has also given no objection to grant letter of administration in favour of the petitioner.

The deceased T. Audilakshmiammal had no issues. There is no next of kin or other person interested to be impleaded. The husband of the deceased T. Audilakshmiammal predeceased her. Since both the attesting witnesses died, the petitioner has filed a third party affidavit to identify the signature of the deceased T. Audilakshmiammal.

4. The Will is a registered Will and more than 30 years old document and there is a presumption under Section 90 of Indian Evidence Act for the execution of the Will, since it is from proper custody. At this juncture, it is relevant to rely the 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*

Page No.3 of 9



O.P. No.124 of 2025

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".

In the case on hand, from the petitioner side evidences and the documents, they revealed that the Will has been executed by the testatrix T. Audilakshmiammal in favour of the petitioner on 12.05.1985, i.e., before 40 years and the respondent is the executor of the Will. Both the attesting witnesses to the Will died and therefore, the petitioner, who has been examined as PW1, has filed third party affidavits and one Mr. Kumaravel, who has been examined as PW2, has identified the signature of the testatrix in the Will and one Sai Sreenivasan, who has been examined as PW3, has identified the signature of one of the attesting witnesses namely Mr. Varadharajulu in the Will. Despite service of notice, the respondent did

Page No.4 of 9



O.P. No.124 of 2025

not appear before the Court. But from the affidavit of the respondent filed

before this Court, it is seen that the respondent has no any objection to grant letter of administration to the petitioner. The petitioner, through the evidences and documents, has amply proved the execution of Will. Therefore, the petitioner is entitled to the relief as prayed for in the petition.

5. Therefore, this Original Petition is **allowed** and Letter of Administration, to the estates and credits of the deceased T.Audilakshmiammal in favour of the petitioner, is granted.

6. Issue Letters of Administration in favour of the petitioner. The petitioner is directed to duly administer the properties and credits of the deceased more fully described in the schedule. The petitioner 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 petitioner is further directed to render true and correct accounts

Page No.5 of 9



O.P. No.124 of 2025

once in a year.

27.10.2025

Index : Yes/No

Speaking Order : Yes/No

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APPENDIX:

List of Petitioner side Witnesses:

PW1 : Mr. K. Rajendran
PW2 : Mr. Kumaravel
PW3 : Mr. Sai Sreenivasan

List of Petitioner side Documents:

Exhibit No.	Date	Description of Documents.
Ex.P.1.	12.05.1925	Original Will executed by Mrs. T. Audilakshmi in favour of the petitioner.
Ex.P.2	04.12.2013	Photocopy of the Death Certificate of Saraswathi.
Ex.P.3	16.12.1922	Computer generated copy of the Death Certificate of Adhilakshmi.
Ex.P.4.	12.11.2022	Computer generated copy of the Death Certificate of K. Varadarajulu.
Ex.P.5	30.09.1969	Settlement deed.



O.P. No.124 of 2025

Ex.P.6	1	Affidavit of assets showing the net value of the property at Rs.1,02,00,000/-.
Ex.P.7	1	Affidavit of 2 nd attesting witness, K. Varadharajulu, in the Will Ex.P.1, who is no more.
Ex.P.8	1	PW2's affidavit filed to the effect that the testatrix had executed the Will dated 12.05.1985.
Ex.P.9	1	Photocopy of PW2's Aadhar Card.
Ex.P.10.	1	PW3's affidavit stating that he knew the signature of the 2 nd attesting witness, Mr. Varadharajulu.
Ex.P.11	1	Photocopy of PW3's Aadhar Card.

27.10.2025



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O.P. No.124 of 2025

P.DHANABAL.,J

mjs

O.P. No.124 of 2025



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O.P. No.124 of 2025

27.10.2025