

O.P.No.692 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **21.08.2025**

CORAM

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

O.P.No.692 of 2024

A.S.Kumar

...Petitioner

VS.

1.J.Raja

2.Mrs.Jothi

3.S.Ramesh Babu

4.S.Usharani

5.Mrs.Kokila

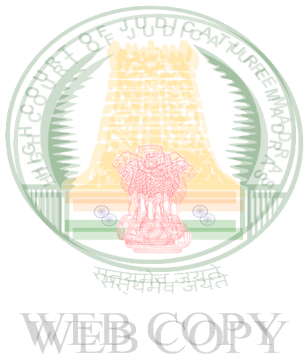
6.Mrs.Devi

...Respondents

PRAYER: Original Petition filed under Sections 232 and 276 of Indian Succession Act and Order XXV Rule 5 of O.S. Rules, praying that this Hon'ble Court may be pleased to pass an order as follows:

a) To grant Letters of Administration with Will dated 10.11.2005, annexed of the properties and credits of deceased may be granted to the petitioner as sister's son/beneficiary under the Will of the said deceased to have effect limited to the State of Tamil Nadu.

b) Pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.



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For Petitioner : Mr.V.Manisekaran
For Respondents : Mr.S.Janarthanam (For R1)
No appearance
(For R2 to R6)
(Served)

ORDER

This Original Petition has been filed for issuance of the Letters of Administration in respect of the Will dated 10.11.2005 executed by Mr.P.L.Radhakrishnan, who died on 24.12.2023. The petitioner is the nephew of the testator through his sister Late.Mrs.Shantha. Similarly the respondents 1 to 4 are the nieces and nephews of the testator, whereas the respondents 5 and 6 are the legal heirs of Late.Mr.S.Dayanethi who is predeceased nephew of the testator and the brother of the petitioner.

2. The petitioner submits that the testator was married to one Mrs.R.Santhakumari during his lifetime and the couple did not have any issues out of the said wedlock. The petitioner further submits that the parents of the testator Late.Mr.P.Lakshmiah and Late.Mrs.Janaki Ammal have already predeceased the testator on 25.04.1986 and 20.05.1981 respectively. The testator had two siblings, namely Mrs.S.Shantha and Mr.P.L.Jayaraman, both of who had also predeceased the testator on 21.09.2005 and 06.11.2017 respectively. The petitioner, respondents 3 and 4 along with one Late.Mr.S.Dayanethi are the children of Late.Mrs.S.Shantha, the afore said predeceased sister of the testator, similarly the respondent 1 and 2 are the



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children of Late.Mr.P.L.Jayaraman, who is the aforesaid predeceased brother

of the testator. The respondents 4 and 5 are the legal heirs of Late.Mr.S.Dayanethi who predeceased the testator on 14.05.2013 and is the nephew of the testator through his sister Late.Mrs.S.Shantha.

3. The petitioner submits that testator was the absolute owner of the immovable property mentioned in the Schedule 'A' of the petition, which he had brought vide the Sale Deed dated 17.09.1985 and upon which he had built a superstructure. Later the testator had sold a part of the aforesaid property and the remaining part of the immovable property, has been morefully described in the Schedule 'B' of the petition. The petitioner asserts that the testator prior to demise had executed a Will dated 10.11.2005, through which he had granted the life interest in the aforesaid immovable property described in the Schedule 'B' of the petition in favour of his wife Late.Mrs.ShanthaKumari, without conferring any alienation rights upon her and the testator further had bequeathed the same property absolutely in favour of his nephew Mr.A.S.Kumar, the petitioner herein. The petitioner contends that, as Late.Mrs.ShanthaKumari, the wife of the testator and the life interest beneficiary named in the Will had predeceased the testator, the petitioner is the sole and absolute beneficiary for the immovable property bequeathed in the Will executed by the testator. Therefore as the absolute beneficiary to the Will dated 10.11.2005, the petitioner seeks issuance of



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Letters of Administration in respect of the property situated within the jurisdiction of this court.

4. The petitioner has examined himself as PW1. He has produced 16 Documents in support of his deposition, which are listed as Ex.P1 to Ex.P13 and Ex.C1 to Ex.C3 at the foot of the order. The Original Will executed by the testator dated 10.11.2005 has been marked as Ex.P6. The online copy of the death certificate of the testator and his wife Late.Mrs.ShanthaKumari, has been marked as Ex.P10 and Ex.P7 respectively. The online copy of the death certificates of Late.Mr.P.Lakshmiah and Late.Mrs.Janaki Ammal who are the parents of the testator, Late.Mrs.S.Shantha who is the predeceased sister of the Testator and Late.Mr.S.Dayanethi, the predeceased nephew of the testator, have been marked as Ex.P3, Ex.P4, Ex.P5 and Ex.P8 respectively. The perusal of the Ex.P6 clearly substantiates the claims made in the petition, that the petitioner is the sole beneficiary for the schedule property mentioned in the Will which has been described as Schedule 'B' property in the petition. The general paper publication have been effected and has been marked as Ex.C1 and Ex.C2 and no objections have been received for the same.

5. The service of notices upon the respondents 1 to 6 have been completed. The 1st respondent who is the nephew of the testator through his



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predeceased brother Late.Mr.P.L.Jayaraman, had filed a Caveat Petition

(D.No.2569/2025) on 23.04.2025 and returned on 25.04.2025. Subsequently

a consent affidavit of the 1st respondent dated 20.08.2025 was filed, through

which the 1st respondent had expressed his consent to grant the Letters of

Administration in favour of the Petitioner. He had further submitted in his

consent affidavit that he is not pressing the Caveat and therefore the Caveat

may be discharged. The 4th respondent had also expressed her consent to

grant the Letters of Administration in favour of the petitioner and her consent

affidavit has been marked as Ex.C3. The learned counsel for the 1st

respondent appeared on behalf of him and had reiterated the respective

consent affidavit of the 1st respondent. In spite of the notices being served the

respondents 2 to 6, chose to keep themselves away from the proceedings.

6. The petitioner has examined Mr.R.Poongavanam, who is the second 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 along with Late.Mrs.ShanthaKumari, who was the 1st attesting witness to the Will. He had further identified the signatures of the testator, the 1st attesting witness and himself in the original Will dated 10.11.2005 marked as Ex.P6.

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 petitioner is 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 petitioner, in respect of the Will dated 10.11.2005 of the testator Late.Mr.P.L.Radhakrishnan. The petitioner is 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 petitioner is 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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Index :Yes/No

Petitioner's witness:

P.W.1 - Mr.A.S.Kumar

P.W.2 – Mr.R.Poongavanam

Documents exhibited by the petitioners:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Photocopy of the registered Sale Deed bearing Document No.3544 of 1985 in favour of P.L.Radhakrishnan dated 17.09.1985.(Original produced, compared and returned)
Ex.P2	Original Will executed by the deceased P.L.Radhakrishnan bearing Document No.108 of 1990 in the SRO Anna Nagar dated 10.08.1990.
Ex.P3	Online copy of the Death Certificate of P.Lakshmiah dated 22.08.1994.
Ex.P4	Online copy of the Death Certificate of Janaki Ammal dated



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<i>Exhibits</i>	<i>Documents</i>
	27.08.2024.
Ex.P5	Online copy of the Death Certificate of S.Shantha dated 27.08.2024.
Ex.P6	Original Will executed by the deceased P.L.Radhakrishnan dated 10.11.2005.
Ex.P7	Online copy of the Death Certificate of Shanthakumari dated 27.08.2024.
Ex.P8	Online copy of the Death Certificate of S.Dayanethi dated 19.08.2024.
Ex.P9	Photocopy of the Legal Heir Certificate of S.Dayanaethi dated 17.07.2013.(Original produced, compared and returned)
Ex.P10	Online copy of the Death Certificate of P.L.Radhakrishnan dated 31.12.2023.
Ex.P11	Photocopy of the Legal Notice sent by the 1 st respondent dated 18.06.2024.
Ex.P12	Photocopy of the Reply Notice sent by the petitioner with original AD Card dated 28.06.2024.
Ex.P13	Photocopy of the Aadhaar Card of the petitioner.(Original produced, compared and returned)
Ex.C1	Original paper publication in Tamil dated 12.03.2025.
Ex.C2	Photocopy of the paper publication in English dated 19.03.2025.
Ex.C3	Consent affidavit of S.Usharanai.

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K.KUMARESH BABU,J.

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