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O.P. No.411 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On : **22.10.2024**

Delivered On : **28.01.2025**

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

O.P. No.411 of 2023

1.Aruna Bhaskar
2.D.Ramakrishna
3.D.Venkatesh
4.Anusuya A.Sharma

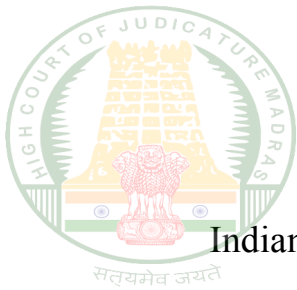
... Petitioners

PRAYER: Original Petition filed under Sections 218 and 278 of the Indian Succession Act in respect of immovable property belonging to the deceased D.C.Krishnayya and deceased Miss D.Sakunthala r/w Order XXV Rule 5 of the Original Side Rules, to issue letters of administration to the property and credits of the deceased to have effect throughout the whole limited to the State of Tamil Nadu may be granted to the petitioners 2 and 3.

For Petitioners : Mr.K.Swaminathan

ORDER

The present petition has been filed under Sections 218 and 278 of the

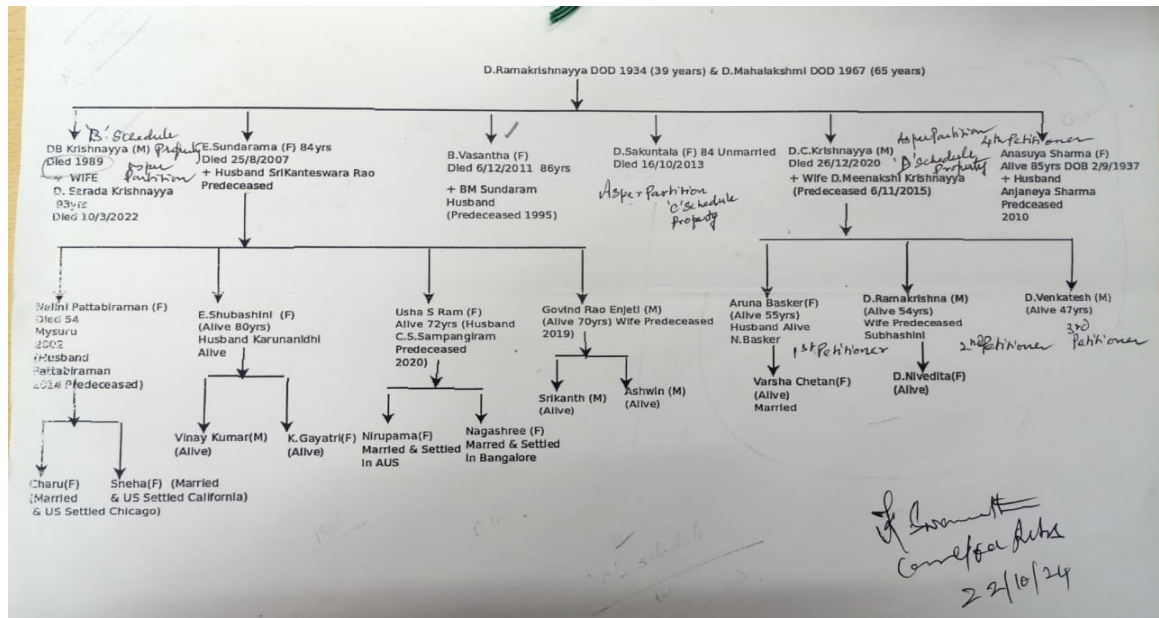


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Indian Succession Act in respect of immovable property belonging to the deceased D.C.Krishnayya and deceased Miss D.SAKunthala r/w Order XXV Rule 5 of the Original Side Rules.

2.The learned counsel for the petitioners has filed a proof affidavit of P.W.1 and also the genealogy tree. The said genealogy tree is extracted hereunder:



3.The petitioners 1 to 3 are the daughter and sons of Late. D.C.Krishnayya S/o Late D.Ramakrishnayya, who died intestate on 26.12.2020 at Chennai. The second petitioner's father's sister Late Miss. D.Sakunthala D/o Late. D.Ramakrishnayya who died intestate at Bangaluru

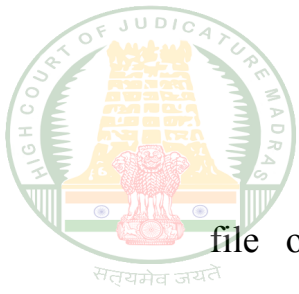


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on 16.10.2013. The second petitioner's father was alive when he purchased the below mentioned property, vide Document No.610 of 1979 on 18.04.1979 from Vyasar Nagar Co-operative Housing Construction Society Limited, which was marked as Ex.P.1, as mentioned in Schedule 'A'. Since it was purchased out of the self-earned funds and contributions by his father's brother Late D.B.Krishnaiah and his sister Late Miss. D.Sakunthala, they were also in joint enjoyment and occupation. Further, they entered into a partition on 06.03.1986 by means of Registered Partition Deed vide Document No.531 of 1986 on the file of SRO Purasawalkam, Chennai, which was marked as Ex.P.2. Thereafter, they were in enjoyment of the property independently in their separate portions of 1/3rd share as per the said document of partition deed as mentioned in schedule 'B', 'C' and 'D' and 'E' common usage.

4(a) It is seen from the records that on 29.09.1989, D.B.Krishnaiah died intestate without any issues, leaving behind his wife Mrs.D.Sharada alone as his legal heir. The death certificate of D.B.Krishnaiah was marked as Ex.P.3 and the legal heirship certificate was marked as Ex.P.4 of while she was in sound mind, she sold her 1/3rd share in the property on 03.05.2006 to the petitioners 2 and 3 vide Document No.1837/2007 on the



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file of SRO, Purasawalkam, Chennai, which was marked as Ex.P.5 (Schedule 'B' as per partition deed). Ms.D.Sakunthala, who was unmarried and died intestate on 16.10.2013 death certificate was marked as Ex.P.6 and she had no issues and as such the share of Ms.Shakunthala devolves only on living heirs of her father Late. D.C.Krishnayya and Mrs.Anusuya A.Sharma.

4(b) The second petitioner's father's another sister Mrs.B.Vasantha died on 06.12.2011 and her death certificate was marked as Ex.P.9 and her husband was also predeceased her. The second petitioner's father, Late.D.C.Krishnayya died intestate, only on 26.12.2020 and his death certificate is marked as Ex.P.10. The legal heirship certificate is marked as Ex.P.11. Another sister of his father Mrs.E.Sundarama died on 25.08.2007 and her death certificate is marked as Ex.P.12. After the death of Ms.Sakunthala leaving behind the petitioners as the legal heirs. There is no other legal heir available except the petitioners 1 to 3 and Mrs. Anusuya. A.Sharma sister of Late D.C.Krishnayya, who is the fourth petitioner herein.

4(c) It is also seen that the other sisters of the second petitioner's father, namely, M/s.Sundaramma and Vasanta were predeceased on 25.08.2007 and 16.12.2011 respectively and their respective husbands were



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also predeceased. Late Ms.D.Sakunthala was unmarried and died intestate

without any issues and as such, the share of Ms.Sakunthala (Schedule 'C' as per Partition Deed) devolves only on the heirs of the second petitioner's father and the fourth petitioner herein. Since the second petitioner's father died after the death of Late Ms.Sakunthala, his half share in Late Ms.Sakunthala's property, will also devolve on his legal heirs, viz, the petitioners 1 to 3 and another half share of Shakunthala's property will devolve on the fourth petitioner herein. Therefore, the elder sisters predeceased her and the share of Ms.Sakunthala devolves as stated above. The 1/3rd share of Late D.B.Krishnaiah's was already purchased by the second petitioner himself and his brother/third petitioner herein on 03.05.2006 and the share of Ms.Sakunthala devolves on the petitioners 1 to 4 equally.

4(d) The fourth petitioner has also given no objection for transferring her share in the suit property or granting Letters of Administration in favour of the petitioners 2 and 3. So also, the first petitioner has no objection to grant his share in respect of the petitioners 2 and 3. Thereby, the petitioners 2 and 3 are seeking the Letters of Administration without Will. The petitioners 1 and 4 have also given a separate affidavit deposing no



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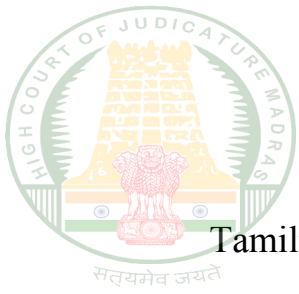
objection for granting Letters of Administration in favour of the petitioners

2 and 3.

4(e) The second and third petitioners' share in the assets, which are likely to come to the petitioners' hands, does not exceed in the aggregate around a sum of Rs.27,00,000/- (Rupees Twenty Seven Lakhs only) and the net amount of the said assets after deducting the second and third petitioners' share, which they have inherited lawfully, allowed to deduct, is only around Rs.54,00,000/-. The petitioners 2 and 3 hereby undertake to duly administer the property and credits of the said Late D.C.Krishnayya and Late Ms. D.Sakunthala as and to make a full and true inventory thereof and exhibit the same in this Court within six months from the date of the grant of Letters of Administration to the petitioners 2 and 3 and also to render this Court a true account of the said property and credits within one year from the said date. Therefore, I find that there is no impediment for granting Joint Letters of Administration in favour of the petitioners 2 and 3 in respect of the petition mentioned property.

5.In the result, this Original Petition in **O.P.No.411 of 2023** is **allowed** and Letters of Administration to be issued in accordance with rules.

Such Letters of Administration shall have effect throughout the State of



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Tamilnadu. The petitioners 2 and 3 are directed to execute a security bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each in the name of the Assistant Registrar (Original Side-II) of this Court. The petitioners 2 and 3 are further directed to render true and correct accounts once in a year.

28.01.2025

Index :Yes/No
Internet: Yes/No
NCC: Yes/No
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APPENDIX

Petitioners' side witness:

P.W.1 –D.Ramakrishna

Petitioners' exhibits:

<i>Exhibits</i>	<i>Date</i>	<i>Description of Documents</i>
P1	18.04.1979	Photocopy of the sale deed executed in favour of Mr.D.C.Krishnayya
P2	06.03.1986	Photocopy of the partition deed between Mr.D.B.Krishnayya, Mrs.D.Kumari and Mr.D.C.Krishnaiah
P3	-	Photocopy of the death certificate of Mr.D.B.Krishnaiah
P4	-	Photocopy of the legal heir certificate issued of Mr.D.B.Krishnaiah
P5	03.05.2006	Photocopy of the sale deed executed by Mrs.D.Saradha in favour of Mr.D.Ramakrishnan and Mr.D.Venkatesh
P6	-	Computer generated death certificate of



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<i>Exhibits</i>	<i>Date</i>	<i>Description of Documents</i>
		Mrs.D.Shakuntala
P7	-	Computer generated death certificate of Mrs.Meenakshi Krishnayya
P8	-	Computer generated death certificate of Mrs.Saradha Krishnan
P9	-	Computer generated death certificate of Mr.D.C.Krishnayya
P11	-	Computer generated legal heir certificate of Mr.D.C.Krishnayya
P12	-	Certificate under Section 63 of BSA
P13	-	Photocopy of the death certificate of Mrs.E.Sundaramma
P14	-	Photocopy of the Aadhaar Card of the first petitioner
P15	-	Photocopy of the Aadhaar Card of Mr.D.Ramakrishna
P16	-	Photocopy of the Aadhaar Card of the third petitioner
P17	-	Photocopy of the Aadhaar Card of the fourth petitioner
P18	-	Affidavit of assets showing the net value of the estate as Rs.54,00,000/-
P19	09.03.2024	Copy of the Paper Publication effected in one issue of Tamil Daily 'Dina Kural'.
P20	16.03.2024	Copy of the Paper Publication effected in one issue of English Daily "Southern Mail".

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RMT.TEEKAA RAMAN, J.

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Pre-Delivery Order Made In
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