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O.P. No.26 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2025

CORAM :

THE HONOURABLE MR.JUSTICE P.DHANABAL

O.P. No.26 of 2025

Roy K George

... Petitioner

Vs

George Jacho

... 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 having effect through out the Union of India.

For Petitioner : Mr. K.C. Ramamurthy

For Respondent : No appearance.

ORDER

This petition has been filed under Section 232 and 276 of the Indian



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Succession Act to grant Letters of Administration to the petitioner to the estates and credits of the deceased having effect through out the Union of India.

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.4 were marked.

3. According to the petitioner, one Ms. A. Idiculla was a spinster and she died on 02.03.1995. The deceased Ms. A. Idiculla was the petitioner's maternal aunt. The deceased was employed in Monahan Girls' Higher Secondary School, Royapettah. She had purchased the schedule mentioned properties from and out of her earned money. The deceased had four brothers and one sister. All the said four brothers were predeceased the said Ms. A.

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Idiculla and her sister namely Mrs. Saramma George, was the only surviving

legal heir of the deceased. The said Mrs. Saramma George also died on

04.08.2006, leaving behind her two sons, the petitioner and the respondent

herein. The amount of assets which are likely to come into the petitioner's

hand does not exceed aggregate sum of Rs.1,60,73,750/-.

4. The last Will and testament executed by the deceased Ms. A. Idiculla was dated 27.03.1986 and the same was registered on 01.04.1986 in the office of SRO, Alandur. There is no executor named in the Will. The petitioner is the sole beneficiary of the said Will. The attesting witnesses to the said Will were R. Dhanam, Retired Teacher, Monahan Girls' Higher Secondary School, Peters Road, Royapettah and V. Damodaran, Office Assistant, Monahan Girls' Higher Secondary School, Peters Road, Royapettah. After the demise of the said Ms. A. Idiculla, the petitioner went to the School during the year

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1996 to enquire about the two attesting witnesses for the purpose of examining the witnesses, but the whereabouts of the said witnesses are not known. Therefore, the petitioner has examined other two persons, who know the deceased and the testator..

5. The petitioner herein, was examined as PW1. A perusal of evidence of PW1 and Ex.P.1 to Ex.P.4 revealed that the petitioner and the respondent are the legal heirs of the deceased and no any objection has been raised either by the respondent or any other party to grant letter of administration to the petitioner. The respondent has filed an affidavit stating that he has no objection for granting letters of administration of the properties and credit of the deceased A. Idiculla to the petitioner.

6. The learned counsel appearing for the petitioner has relied upon judgments of this Court and Hon'ble Supreme Court in *Marathal (died) and another vs. Kanniammal (died) and others reported in 2024 SCC Online*

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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 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, the deceased

Ms. A. Idiculla, executed the Will on 27.03.1986, i.e., before 39 years and the

Will has been attested by two attestors namely R. Dhanam, Retired Teacher,

Monahan Girls' Higher Secondary School, Peters Road, Royapettah and V.

Damodaran, Office Assistant, Monahan Girls' Higher Secondary School,

Peters Road, Royapettah. The petitioner has stated that when she made a

search on those two attesting witnesses during the year 1996, the whereabouts



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of those witnesses are not known. Since the Will is more than 30 years old document and produced from proper custody, presumption under Section 90 of Indian Evidence Act is available. Further, he has produced other two witnesses, who know the deceased well and they have been examined as PW2 and PW3. They have deposed that they know the testatrix very well for many years, that she is the aunt of the petitioner and she bequeathed her property in favour of the petitioner. Therefore, 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.

7. Accordingly, this Original Petition is *allowed* and Letter of Administration, to the estates and credits of the deceased Ms. A. Idiculla in favour of the petitioner, is granted.

8. Issue Letters of Administration in favour of the petitioner. The
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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 once in a year.

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Index : Yes/No
Speaking Order : Yes/No
mjs

APPENDIX:

List of Petitioner side Witnesses:

PW1 : Mr. Roy K George
PW2 : Mr. A.M. Thomas
PW3 : Mr. Anil Oommam

List of Petitioner side Documents:

Exhibit No.	Date	Description of Documents.
Ex.P.1.	30.07.1963	Photocopy of the Sale Deed.
Ex.P.2	27.03.1986	Original Will executed by Ms. A. Idiculla.
Ex.P.3	02.03.1995	Original Death Certificate of Anna Idiculla.
Ex.P.4.	24.08.2006	Original sale Deed of Saramma George.



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