



O.P. No.228 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2025

CORAM :

THE HONOURABLE MR.JUSTICE P.DHANABAL

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1. Chandrasekari W/o. Late S. Subbarayan
 2. S. Mohanraj S/o. Late S. Subbarayan
 3. S. Sivakumar S/o. Late S. Subbarayan
 4. R. Amudha W/o. Ramesh
 5. Rekha Pradeepkumar W/o. M. Pradeepkumar ...
- Petitioners

Vs

G. Kotteswaran S/o. Govindan

.. Respondent

PRAYER:Original Petition is filed under Section 258 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 and Testament of Late Kuppuswamy Nattar dated 01.02.1950 annexed with the petition, as beneficiaries / Legatees of the deceased having effect throughout the State of Tamil Nadu.

For Petitioners : Mr. S. Umapathy

For Respondent : No appearance.

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ORDER

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This petition has been filed under Section 258 of the Indian Succession Act to grant Letters of Administration to the petitioner to the estates and credits of the deceased having effect throughout 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 was examined and Ex.P.1 to Ex.P.12 were marked.

3. According to the petitioner, one P. Kuppuswamy Nattar died on 07.12.1951 and he ordinarily resided at the time of his death at No.1/10, New No.13, Nattumuthukumarappa Mudali Lane, Chennai-4 and the deceased P. Kuppuswamy Nattar, during his lifetime, purchased a house, ground and premises



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bearing then Door No.1/10, New No.13, Nattumuthukumarappa
Mudali Lane, Mylapore. The deceased P. Kuppuswamy Nattar

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had executed a Will on 01.02.1950 and as per the said Will, the deceased P. Kuppuswamy Nattar had bequeathed the above said property in favour of one S. Subbarayan. The sole beneficiary S. Subbarayan under the Will dated 01.02.1950, had filed an application in O.P. No.83/2001 for grant of letters of administration and the said application was converted into T.O.S. No.9/2003 as the respondent herein filed caveat. Pending TOS, the respondent herein filed his consent affidavit and the said T.O.S. No.9/2003 was allowed granting letters of administration in favour of said Late S. Subbarayan. Thereafter, the said S. Subbarayan, owing to his ill-health and age ailments, failed to execute letters of administration bond as per the order of this Court and he died intestate on 14.04.2023 leaving behind the petitioners herein as his legal heirs. The 1st petitioner is the wife of deceased S. Subbarayan and the other petitioners are the sons and daughters of the said Late S. Subbarayan. The amount of assets which is likely to come to the hands of the petitioners' hand does not exceed in aggregate the sum of Rs.25



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lakhs. Therefore, the petitioners have filed this application.

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4. The 3rd petitioner herein, was examined as PW1. PW1, in his evidence, has reiterated the petition averments. A perusal of evidence of PW1 and Ex.P.1 to Ex.P.12 revealed that as per Will dated 01.02.1950, the schedule property belonged to one P. Kuppuswamy Nattar was bequeathed in favour of one S. Subbarayan and the said S. Subbarayan died on 14.04.2023 and the petitioners are the surviving legal heirs of the deceased S. Subbarayan and the respondent has filed his consent affidavit to grant letters of administration to the petitioners. Despite service of notice, the respondent did not appear before the Court.

5. On a perusal of documents, it is further clear that the Will has been executed in the year 1950. At this juncture, it is relevant to refer 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*"

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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 Late Kuppuswamy Nattar executed the Will

dated 01.02.1950, i.e., before 75 years and already the execution of Will,

attestation and bequeathing of property in favour of Late S. Subbarayan have

been proved before this Court and the Will has been attested by two attestors

and they are no more. Already an application was filed by S. Subbarayan, in

whose favour, the Will and Testament of Late Kuppuswamy Nattar dated

01.02.1950 was executed and letters of administration was also granted in

favour of the said Late S. Subbarayan and due to his ill health and age

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ailments, he was not able to execute letters of administration. Now the petitioners, as the succeeding legal heirs of the said S. Subbarayan, have filed this petition. Since the Will is more than 75 years old document and produced from proper custody, presumption under Section 90 of Indian Evidence Act is available. Therefore, the petitioners, through the evidences and documents, have amply proved the execution of Will. The respondent has also consented for the grant of letters of administration in favour of the petitioners. Therefore, the petitioners are entitled to the relief as prayed for in the petition.

6. Therefore, this Original Petition is **allowed** and Letters of Administration, to the estates and credits of the deceased Kuppuswamy Nattar as per the Will and Testament dated 01.02.1950 in favour of the petitioners, is granted.

7. Issue Letters of Administration in favour of the petitioners. The petitioners are directed to duly administer the properties and credits of the deceased more fully described in the schedule. Each petitioner is directed to execute a **security bond** for a sum of **Rs.25,000/- each (Rupees Twenty Five**
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Thousand only) in favour of the Assistant Registrar (O.S.II), High Court,

Madras. The petitioners are further directed to render true and correct accounts once in a year.

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Index : Yes/No

Speaking Order : Yes/No

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APPENDIX:

List of Petitioner side Witnesses:

PW1 : Mr. S. Sivakumar

List of Petitioner side Documents:

Exhibit No.	Date	Description of Documents.
Ex.P.1 -	20.10.2020	Downloaded copy of the order in T.O.S. No.9 of 2003 passed by this Court.
Ex.P.2	-	Computer generated Death Certificate of Mr. S. Subbarayan.
Ex.P.3	-	Computer generated Legal Heirship Certificate of Mr. S. Subbarayan.
Ex.P.4 -	15.08.2025	Copy of paper publication effected in one issue of Tamil daily "Makkal Kural".



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Ex.P.5	23.08.2025	Copy of paper publication effected in one issue of English daily “Trinity Mirror”.
Ex.P.6	1	Affidavit of asset showing the net value of the estate of Rs.25,00,000/-.
Ex.P.7	1	Copy of the E-Aadhar Card of Mr. S. Sivakumar along with the affidavit under Section 63(4) of B.S.A.
Ex.P.8	1	Photocopy of the Aadhar Card of Mrs. Chandrasekari.
Ex.P.9	1	Photocopy of the Aadhar Card of Mr. Mohanraj.S.
Ex.P.10	1	Photocopy of the Aadhar Card of Mrs. R. Amudha.
Ex.P.11	1	Photocopy of the Aadhar Card of Ms. Rekha Pradeepkumar.
Ex.P.12	1	Affidavit under Section 63(4) of B.S.A, 2023.

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