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OP No. 339 of 1



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-11-2025

CORAM

THE HONOURABLE MR.JUSTICE P. DHANABAL

OP No. 339 of 1996

1. R.G.Elumalai (Deceased) and 3

Others

S/o.Late R.E.Govindarajulu Chettiar,
Plot No.1226, 20th Main Road, Anna
Nagar, Madras - 40.

2. Nalini Elumalai

W/o.Late Elumalai,

3. E.Karthik

S/o.Late Elulmalai,

4. Abhirami Vedhanarayanan

D/o.Late Elumalai, 2 to 4 residing at
No.1226, 20th Main Road, Anna Nagar,
Chennai - 600 102. (Petitioners 2 to 4
brought on record as legal heirs of the
deceased 1st petitioner and the
amendment carried as per order dated
29.10.2024 in A.No.3588/2024 in
OP.No.339/1996)

Petitioner(s)

Vs

1. P.S.Sarojini (Deceased) and 5 Others

W/o.P.K.Shanmugham and

D/o.R.G.Radhakrishnammal, No.47,
Ponnappa Chetty Street, Madras - 3.

2.P.S.Sridhar

S/o.Sarojini, No.37/1, Vedagiri Maistry
Street, Chindaripet, Chennai - 600 002.



3.P.S.Srikanth

S/o.Sarojini, No.36/22, Kulandaivelu
Street, Purasaiwalkkam, Chennai - 600
007.

4.P.S.Srinath

S/o.Sarojini, No.33, Ulagappa Maistry
Street, Chindaripet, Chennai - 600 002.

5.P.S.Srihari

S/o.Sarojini, No.38, Ramalingam
Nagar, Virugambakkam, Chennai - 600
092.

6.P.S.Srikrishnan

S/o.Sarojini, No.36/22, Kulandaivelu
Street, Purasaiwalkkam, Chennai - 600
007. (2 to 6 respondents brought on
record for deceased respondent
P.S.Sarojini as legal heirs of the
deceased 1st respondent and the
amendment carried as per order dated
03.02.2025 in A.No.6510/2024 in
OP.No.339/1996)

Respondent(s)

PRAYER: This Original petition has been filed under Section 232 and 276 of the Indian Succession Act to grant Letters of Administration with the Will annexed may be granted to the petitioners as the legal heirs of beneficiary under the Will of the said deceased having effect throughout the State of Tamil Nadu.

For Petitioner(s): M/s.M.KEMPRAJ

For Respondent(s): M/s.N.Senthilkumar

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 estates and credits of the deceased having effect through out 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 petitioner, PW1 and PW2 were examined and Ex.P.1 to Ex.P.11 were marked.

3. According to the petitioners, one Smt.Radhakrishnammal during her lifetime, had executed a Will dated 30.04.1980 and the 1st petitioner is the Executor of the said Will. The amount of assets which are likely to come into the petitioner's hand does not exceed aggregate sum of Rs.1,11,380/-. The said deceased Radhakrishnammal died leaving behind the 1st petitioner and the 1st respondent being her son and daughter as her legal heirs. The husband of Smt. Radhakrishnammal predeceased her. In this case, since the 1st petitioner and the 1st respondent died, their legal heirs have been impleaded as parties as per the order of this Court and the petitioners prayed to grant letters of administration in their favour.

4. The 3rd petitioner herein, has examined as PW1 and Ex.P.1 to Ex.P.11



were marked. A perusal of evidences and documents, it is seen that the Computer generated copy of the Death Certificate of Mr. R.G. Balasubramanian has been inadvertently marked twice as 'Ex.P.8' and 'Ex.P.10'. Therefore, the photocopy of Aadhar card, which has been marked as 'Ex.P.11', may be treated as Ex.P.10.

5. One Mrs. O.K. Dakshayani, who knows one of the attestors to the Will namely Mr.R.G. Balasubramanian, was examined as PW2. A perusal of evidences of PW1 and PW2 and Ex.P.1 to Ex.P.11 revealed the relationship and legal heirship of the parties with the deceased and the 1st petitioner is the Executor of the Will, as per the Will dated 30.04.1980.

6. The Will dated 30.04.1980 is an 45 years old registered Will, which was executed by the deceased Smt. Radhakrishnammal in the presence of two attesting witnesses. The original Will has been marked as Ex.P.1 by PW1. Since the Will is a 45 years old document and it has been produced from proper custody, a presumption under Section 90 of Indian Evidence Act is available. At this juncture, it is relevant to rely upon a 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 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".

6.1. PW2 Mrs. O.K. Dakshayani has deposed that she is the daughter of Mr. R.G. Balasubramanian, who is one of the attesting witnesses in the Will executed by the testatrix Mrs. Radhakrishnammal and also the deceased Mrs. Radhakrishnammal is his paternal grandmother, that his father passed away on 22.03.2025 and PW2 is well acquainted with the signature of his father and also the testatrix. He has also identified the Will and the signatures of the testatrix and his father signed as 1st attesting witness. Therefore, the petitioners, through the evidences and documents, have amply proved the execution of Will. Therefore, the petitioners are 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 Mrs. Radhakrishnammal in favour of the petitioners is granted.



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

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Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

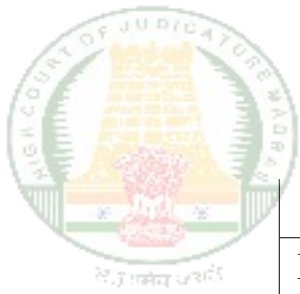
Neutral Citation:Yes/No

APPENDIX:**List of Petitioner side Witnesses:**

PW1 : Mr. E. Karthik
PW2 : Mrs. O.K. Dakshayani

List of Petitioner side Documents:

Exhibit No.	Date	Description of Documents.
Ex.P.1.	30.04.1980	Original registered Will and Testamant executed by Mrs. R.G. Radhakrishnammal
Ex.P.2	-	Original Death Certificate of Mr. R.G. Elumalai.



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Ex.P.3		Affidavit of Assets
Ex.P.4. Series (2nos.)		Copies of paper publication effected in one issue of Tamil daily “Makkal Kural” dated 19.05.2025 and one issue of English daily “Trinity Mirror” dated 26.05.2025.
Ex.P.5	10.10.2023	Computer generated copy of the Death Certificate of Mr. Elumalai.R.G.
Ex.P.6	16.04.1997	Photocopy of the Legal Heirship certificate of Mr. R.G. Elumalai.
Ex.P.7	23.02.2018	Computer generated copy of the Death Certificate of Sarojini Shanmugam.
Ex.P.8	17.04.2025	Computer generated copy of the Death Certificate of Mr. R.G. Balasubramanian.
Ex.P.9.		Certificate under Section 65B of the Indian Evidence Act
Ex.P.10		Photocopy of the Aadhar card of PW2.

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