



A.No.622 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-06-2026

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THE HON'BLE DR.JUSTICE A.D.MARIA CLETE

A No. 622 of 2026

in

O.P. No. 227 of 2024

1. N.J.Ramesh
Old No.14, New No.16, Sulaiman Zackaria
Avenue,
Off Casa Major Road, Egmore,
Chennai - 600 008.
2. N.J.Suresh
Old No.14, New No.16, Sulaiman Zackaria
Avenue,
Off Casa Major Road, Egmore,
Chennai - 600 008.
3. Asha Janarthan
W/o.Mr.J.Sekar,
Residing at 10017 Oak Tree Court,
Lone Tree, Colorado, 80124,
United States of America (USA).

..Applicant(s)

Vs

Shilpa J Suresh
D/o.N.J.Suresh,
Residing at Flat No.2, Spenlow House,
Jamaica Road, SE16 4SJ, Bermondsey,
United Kingdom.

..Respondent(s)



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PRAYER: To permit the 3rd Applicant to consequently dispose of the Schedule A Property mentioned in the Will dated 05/10/2020 by sale to a third party for consideration.

For Applicant(s): MR.Kishore Balasubramanian

For Respondent(s): Mrs.Aishwarya S.Nathan

ORDER

This application has been filed by the applicants/petitioners seeking permission of this Court to permit the 3rd applicant who is the 3rd petitioner in O.P.No.227 of 2024 ,to sell the 'A' schedule property described in the Will dated 05.10.2020 in favour of a third party for consideration.

2. The applicants invoke Section 307(2)(ii) of the Indian Succession Act, 1925. The applicants are the children of the deceased testator, late Mrs. Bharathi Janarthan, who died on 20.05.2021 leaving behind the said Will dated 05.10.2020. In O.P.No.227 of 2024, Letters of Administration with Will annexed were granted in favour of the petitioners on 14.03.2025.

3. Under the terms of the Will the testator bequeathed her rights in the 'C' schedule property (Casa Major Road property) to the 1st and 2nd petitioners. The 3rd petitioner (daughter) was required to execute a release deed relinquishing her



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rights in the 'C' schedule property in favour of the 1st and 2nd petitioners within one year from the date of death of the testator. In default of such compliance, the Will provides that the 'A' and 'B' schedule properties, along with jewels and deposits, shall devolve exclusively upon the 1st and 2nd petitioners.

4. Admittedly, the 3rd petitioner did not execute the release deed within the stipulated period. The explanation offered is that due to the illness of her husband (brain stroke) and his treatment abroad, she was unable to comply within time.

5. Subsequent to the grant of Letters of Administration, the parties appear to have entered into an inter se arrangement whereby the 3rd petitioner agreed to execute a release deed in respect of the 'C' schedule property; and the 1st and 2nd petitioners agreed to settle the 'A' and 'B' schedule properties in favour of the 3rd petitioner. Pursuant to such arrangement, applications in A.Nos.621 and 623 of 2026 were filed in the disposed O.P.No.227 of 2024, and the same were allowed on 09.02.2026.

6. Notwithstanding the above, the present application is filed by the 3rd petitioner seeking permission to sell the 'A' schedule property to a third party for



consideration. The justification advanced is that since earlier applications were allowed, a similar order may be passed in this application as well.

7. On the question of maintainability, the learned counsel for the applicants / petitioners submitted that Section 307 of the Indian Succession Act is applicable, since the Letters of Administration granted by this Court contained a restriction that the administrators shall not transfer or otherwise dispose of immovable property without prior written permission of the Court. It is submitted that the provision does not distinguish between an administrator and a legal heir, and therefore, once Letters of Administration have been granted, the applicants are entitled to seek leave of this Court before dealing with the property.

8. It is further submitted that the applicants are not seeking to traverse beyond the Will or alter the terms of the Will, but are only seeking permission of this Court to sell the Schedule A property, after the property has been settled in favour of the third applicant. It is also submitted that the sole respondent has not objected to the application being allowed and has made an endorsement to that effect.



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9. The learned counsel placed reliance upon the decision of this Court in **Varun**

M.J. and another v. N.Mohan Kumar and others, reported in 2024 SCC OnLine

Mad 10887, wherein this Court, after grant of Letters of Administration, permitted

sale of the property under Section 307 of the Indian Succession Act. Reliance was

also placed on the decision of the **Bombay High Court in Tara Punyadeo Ojha v.**

Nitish Punyadeo Ojha reported in 2021 SCC OnLine Bom 5264, to contend that

where the administrator and the legal heirs are one and the same, leave may not

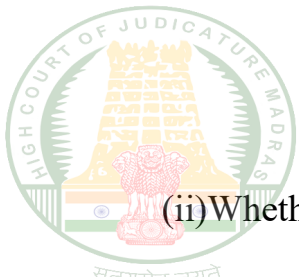
strictly be necessary, but purchasers may nevertheless require an order of Court,

and therefore an application seeking such permission is maintainable.

10. Therefore, the learned counsel for the applicants submitted that the present application is maintainable both on facts and in law, and prayed that this Court may permit the third applicant to sell the Schedule A property to the third party purchaser, as prayed for in the application.

11. The Points for Consideration are:

(i) Whether an application under Section 307 of the Act is maintainable in a disposed testamentary O.P.;



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(ii) Whether the Court can grant permission to sell property contrary to the terms of the Will;

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(iii) Whether beneficiaries can seek the seal of approval of the testamentary Court for inter se arrangements or alienations.

12. Points 1 to 3: Section 211 of the Indian Succession Act 1925 Act provides that the executor or administrator is the legal representative of the deceased and the estate vests in him for purposes of administration. Section 307 confers power on the executor/administrator to dispose of property. However, the said power is not absolute; It is fiduciary in nature, it must be exercised only for purposes of administration, such as discharge of debts and liabilities deceased and it is subject to the terms of the Will. The power under Section 307 cannot be invoked to defeat or rewrite the testamentary scheme.

13. Once Probate or Letters of Administration is granted the Original Petition stands disposed of, the testamentary Court becomes functus officio, except for revocation under Section 263, and ensuring compliance with filing of inventory and accounts. There is no statutory provision requiring a beneficiary to seek permission of the Court to alienate property.

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14. The power under Section 307 is intended for exceptional situations, namely:

where sale is necessary to discharge debts, or to meet statutory liabilities, or for proper administration of the estate. It cannot be invoked, to alter the scheme of the Will, to validate private arrangements between beneficiaries, or to confer legitimacy on transactions outside the scope of administration.

15. In the present case the Will clearly prescribes a conditional bequest. The 3rd petitioner failed to comply with the condition within the stipulated time. Consequently, as per the Will, the 'A' and 'B' schedule properties devolve upon the 1st and 2nd petitioners.

16. Once the Will is proved, it operates from the date of death of the testator, and its terms must be strictly given effect to. The subsequent arrangement between parties, is purely a private arrangement, it may be effectuated in accordance with law (by registered conveyances), but cannot be brought within the testamentary jurisdiction for approval.

17. From the records and submission of applicants it is made clear that the present application is not for administration of estate, but for alienation by a

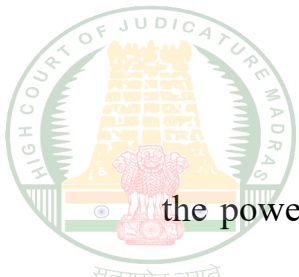


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beneficiary. Section 307 cannot be invoked for such purpose. The Court cannot extend the time stipulated in the Will, nor dilute its conditions. The parties cannot use testamentary proceedings to validate or bypass property transfer requirements under general law. Once property vests in beneficiaries, they are free to deal with it, subject to the conditions if any imposed in the Will. She can enjoy the property with the power of alienation without seeking permission of this Court.

18. The present application is a clear attempt to seek approval of this Court for a transaction outside the scope of testamentary jurisdiction, and invoked Section 307 of Indian Succession Act 1925 in a situation where it has no application.

19. The legal position as regards the powers of an executor/administrator and the rights of beneficiaries stands well settled. In ***GotiramNathu Mendre v. Sonabai And Ors reported in AIR 1970 Bom 73***, the Bombay High Court has categorically held that, upon the death of the testator, the estate vests in the executor or administrator by virtue of Section 211 of the Indian Succession Act, 1925, and not in the beneficiaries. The executor or administrator alone is clothed with the statutory authority under Section 307 of the Act to deal with the estate, including



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the power of sale, strictly for the purpose of administration, such as discharge of debts and liabilities of the deceased.

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20. It is further laid down that the beneficiaries under the Will do not acquire any immediate right, title or interest in specific items of the estate so as to enable them to alienate or otherwise deal with the same. Their right is only to receive their respective shares upon completion of administration in accordance with the terms of the Will. Any attempt by the beneficiaries to deal with the estate property, dehors the authority of the executor or administrator, is legally unsustainable.

21. The said principle also emphasises that the powers conferred under Section 307 are fiduciary in nature and cannot be exercised in a manner contrary to the intention of the testator as expressed in the Will. Consequently, neither the beneficiaries can invoke Section 307 to justify alienation, nor can the Court grant permission to act in derogation of the testamentary scheme.

22. In the light of the above authoritative pronouncement, it is clear that the application seeking permission to deal with the estate property at the instance of the beneficiaries is not maintainable, and the statutory power under Section 307(2)



can be invoked only by the executor or administrator for bonafide administration of the estate.

23. In the above circumstances, the points are answered as follows: No application is maintainable in a disposed testamentary original petition, except an application under Section 263 of the Indian Succession Act, 1925 for revocation of the grant, and applications relating to the filing of inventory and accounts/statements as contemplated under the Act. The Court cannot act contrary to the terms of the Will or in derogation of the wishes of the testator.

24. Further, Section 307(2) of the Act can be invoked only by the executor or administrator, and that too in appropriate cases, for the purpose of administering the estate of the deceased, such as for payment of debts and liabilities. The said provision cannot be invoked by the beneficiaries under the Will. Upon completion of administration, when the property vests in the beneficiaries in terms of the Will, they are entitled to deal with the bequeathed property in accordance with law, and no permission of the Court is required for such dealings. Accordingly, the points are answered.



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25. In the above circumstances, this Court holds that the application is not maintainable, and the relief sought falls outside the scope of Section 307 of the Indian Succession Act, 1925. Accordingly, this Application is dismissed as not maintainable. No costs.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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DR.A.D.MARIA CLETE, J.

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