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OP No. 230 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-01-2026

CORAM

THE HON'BLE MR.JUSTICE P. DHANABAL

OP No. 230 of 2025

Chandra

W/o.Late Raja Naicker,

Old No.8, New No.2,

Jayammal Street,

Shenoy Nagar,

Chennai - 600 030.

..Petitioner(s)

Vs

Saroja

W/o.Late Chittibabu Naicker,

Kazhanipakkam Village,

Thirukalukunram (Via),

Oragadam Post,

Chengalpet District -

Pincode - 603109.

..Respondent(s)

PRAYER: The Original Petition has been filed under Section 232 and 276 of the Indian Succession Act and Order XXV Rule 5 of Original Side Rules praying to grant Letters of Administration with the Will annexed to the petitioner as Daughter/Beneficiary under the Will of the deceased to have effect throughout the State of Tamil Nadu.



For Petitioner(s):

G.Krishna Kumar

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 limited to 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 issues 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.P20 were marked.

3. According to the petitioner, she and the respondent are the elder and the younger daughters of one Mrs. S. Muniammal respectively. The said Mrs. S. Muniammal died on 31.08.2002 leaving behind her daughters and during her life time, she possessed the schedule mentioned property within the jurisdiction of this Court. The deceased Mrs. S. Muniammal had executed her last Will and Testament dated 30.06.1992 in the presence of the attesting witnesses namely 1) Late Mr. Seshappa Naicker, the husband of the deceased, 2) one Late K.T. Chittibabu, who is the husband of the younger daughter Saroja, the respondent



herein, 3) Mrs. Saroja, the respondent herein and 4) Mr. Ramakrishna Mudaliar, the neighbour of the deceased Mrs. S. Muniammal. The above said execution of Will was personally witnessed by the petitioner's elder son namely Mr. Mohana Sundaram, the grandson of the Testatrix / deceased Mrs. S. Muniammal. There is no executor appointed as per the said Will. The husband of the deceased Mrs. S. Muniammal predeceased her on 08.02.1996. The petitioner is the only absolute and beneficiary of the Will in respect of the schedule mentioned property.

4. The amount of assets which are likely to come into the hands of the petitioner is approximately Rs.1,35,08,000/-. Except the petitioner and the respondents, there is no other next of kin to the deceased. As three attesting witnesses were reported dead, one Mr. Mohana Sundaram, elder son of the petitioner herein, has been examined as PW2 and he has filed an affidavit to that effect.

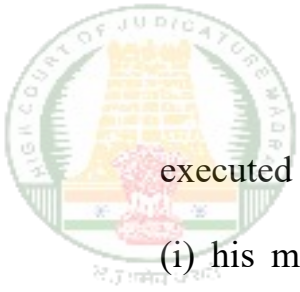
5. PW1 and PW2 were examined and Ex.P.1 to Ex.P.20 were marked. PW1 has reiterated the petition averments and further stated that the deceased executed a Will dated 30.06.1992 in the presence of the attesting witnesses.

6. The Will dated 30.06.1992 is more than 30 years old Will, which was executed by the deceased Mrs. S. Muniammal in the presence of the attesting



witnesses. The original Will has been marked as Ex.P.1 by PW1. Since the Will is a 34 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*** wherein 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"*.

7. In this case, one Mr. Mohana Sundaram, who is acquainted with the signatures of the Testatrix Mrs. S. Muniammal and the attestors, has been examined as PW2. He has deposed that the deceased Mrs. S. Muniammal is his maternal grandmother and he had seen the Will executed by his maternal grandmother Mrs. S. Muniammal and he has seen his grandmother affixed her thumb impression on the aforesaid Will and he is aware of Ex.P.1 which was



executed by his maternal grandmother Mrs. S. Muniammal in the presence of

(i) his maternal grandmother's husband Mr. Seshappa Naicker, who died on 08.02.1996 (ii) Mr Chittibabu Naicker, the respondent's husband, who died on 14.09.2001; (iii) Mrs. Saroja, the respondent herein and (iv) Mr. Ramakrishna Mudaliar, neighbour of deceased Mrs. S. Muniammal and he died on 18.02.1997. PW2 was present at the time of registration of the aforesaid Will.

8. A perusal of evidences of PW1 and PW2 and Ex.P.1 to Ex.P.20 revealed that the petitioner and the respondent are the legal heirs of the deceased Mrs. S. Muniammal. No any objection has been raised either by the respondent or any other party to grant letter of administration to 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.

9. Therefore, this Original Petition is *allowed and* Letter of Administration, to the estates and credits of the deceased Mrs. S. Muniammal in favour of the petitioner, is granted.

10. Issue Letters of Administration in favour of the petitioner. The 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.

19-01-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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APPENDIX:

List of Petitioner side Witnesses:

PW1 : Mrs. Chandra
PW2 : Mr. Mohana Sundaram

List of Petitioner side Documents:

Exhibit No.	Date	Description of Documents.
Ex.P.1.	30.06.1992	Original Will executed by the deceased Mrs. S. Muniammal.
Ex.P.2	28.02.1983	Original Sale Deed
Ex.P.3	30.06.1992	Original Power of Attorney executed by the Testatrix and the petitioner in respect of the schedule property.
Ex.P.4.	29.03.2001	Certified copy of the Sale Deed registered as Doc. No.1033 of 2001.
Ex.P.5	29.03.2001	Certified copy of the Sale Deed registered as Doc. No.1054 of 2001.



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Ex.P.6	-	Original Death Certificate of Mrs. Muniammal.
Ex.P.7	-	Original Legal Heirship Certificate of Mrs. S. Muniammal.
Ex.P.8.	-	Original Property Tax demand card stands in the name of Mrs.S. Muniammal.
Ex.P.9.	-	Original Water and Sewerage Demand card stands in the name of Mrs. S. Muniammal.
Ex.P.10	-	Original Certificate of Extract from the Town Survey Land Register in respect of the property stands in the name of Mrs. S. Muniammal.
Ex.P.11	-	Photocopy of PW1's Aadhar Card.
Ex.P.12	-	Affidavit of assets showing the net value of the estate as Rs.1,34,88,000/-
Ex.P.13	17.09.2025	Paper publication effected in Tamil daily "Makkal Kural".
Ex.P.14	27.09.2025	Paper publication effected in English daily "Trinity Mirror".
Ex.P.15	-	Computer generated Death Certificate of Mr. Seshappa Naicker.
Ex.P.16	-	Certified copy of the Death Certificate of Mr. Chittibabu.
Ex.P.17	-	Computer generated Death Certificate of Mr. Ramakrishna Mudaliar.
Ex.P.18	-	Computer generated Birth Certificate of Mrs. Hamsaveni.
Ex.P.19	-	Photocopy of PW2's Aadhar Card.
Ex.P20	-	Certificate under Section 63(4)(c) of B.SA.

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