



WEB COPY

OP No. 446 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-01-2026

CORAM

THE HON'BLE MR.JUSTICE P. DHANABAL

OP No. 446 of 2015

and A. Nos.6550/2018, 6551/2018 and 6552/2018

1. VEERAMMAL (died)

(Sole petitioner died Amendment carried out as per order dated 06/12/2021 D. No.33204/2021 in memo filed in OP.446/2015)

2. K.Jayaraman S/o.Late Mr.A.Kaveri,

3. K.Sivaraman S/o.Late Mr.A.Kaveri,

4. K.Kannan S/o.Late Mr.A.Kaveri,

5. S.Lakshmi W/o.Late K.Sethuraman,

6. S.Kavitha D/o.Late K.Sethuraman,

7. S.Karuppasamy S/o.Late K.Sethuraman,

Minor Rep by her mother and natural guardian
Mrs. S. Lakshmi.

..Petitioner(s)

Vs

1. K.SETHURAMAN (died)

S/o.Late Mr.A.Kaveri,

(Legal heirs of the deceased 1st respondent brought on record as 8th to 10th respondent amendment carried out as per order dated 09.11.2017 passed in A.No.467/2017).

2. Bagyalakshmi



D/o.Late Mr.A.Kaveri,
W/o.Mr.Picaikani,

3. Kasthuri

D/o.Late Mr.A.Kaveri,
W/o.Mr.Sivasankar,

4. Parameswari

D/o.Late Mr.A.Kaveri,
W/o.Mr.K.Amirthapandy,

(R2 to R4 and R8 to R10 are transposed as
petitioner 2 to 7 and amendment carried out as
per order dated 20.09.2022 in A.No.3740/2022
in OP.446/2015)

..Respondent(s)

PRAYER: The Original Petition has been filed under Section 232, 255 and 276 of Indian Succession Act read with Order XXV Rule 5 of Original Side Rules praying to grant Letters of Administration to the petitioners as the daughter-in-law and one of the beneficiaries under the Will of the said deceased.

For Petitioner(s): M/s. P. Mohanraj

For Respondent(s): R1 – died.

M/s. S.V. Sugumar [for R2 to R4, R5, R6]

R7 – served – No appearance.



ORDER

This petition has been filed under Section 232, 255 and 276 of the Indian Succession Act to grant Letters of Administration to the petitioners.

2. After filing of this petition, this Court directed the petitioners 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 petitioners, PW1 and PW2 were examined and Ex.P.1 to Ex.P11 were marked.

3. According to the petitioners, the 1st petitioner is the Veerammal is the daughter in law of Late Azhagirisamy. The parents and wife of the said deceased Azhagirisamy have predeceased him. The said deceased Azhagirisamy died leaving behind his only son. During the life time of the deceased Azhagirisamy, he had executed his last Will and Testament dated 02.04.1973, in the presence of two witnesses, bequeathing his properties in favour of his son and daughter-in-law. No executor was appointed as per the said Will. After the death of the said Azhagirisamy, the Will came into effect. Thereafter, the 1st petitioner had constructed buildings on the said property. The husband of the 1st petitioner died intestate on 07.01.2009 leaving behind the 1st petitioner and respondents 1 to 7 as his legal heirs. As per the said Will dated



02.04.1973, the 1st petitioner is entitled to half share in the properties of Late Azhagirisamy. The 1st petitioner and her husband had spent huge amount for the marriage of the respondents 5 to 7. The petitioner Veerammal along with her husband Late Mr. Kaveri sold some other properties owned by them to raise money for the marriage and other expenses for the welfare of the respondents 5 to 7. The 5th and 6th respondents got married and the respondents were paying rent and electricity charges to their father Late Mr. Kaveri till his death. The petitioner Veerammal settled her shares in favour of her sons namely the respondents 1 to 4 herein. After the death of Mr. A. Kaveri, the respondents 5 and 6, in collusion with the 7th respondent, filed vexatious Suit against the petitioner and the respondents 1 to 4 for partition in O.S. No.1090 of 2010 pending on the file of the II Assistant Judge, City Civil Court, Chennai and other Suits for permanent injunction from interfering with the peaceful possession of amenities of toilet and for demolishing the amenities of toilets and bathrooms and the above said Suits are pending.

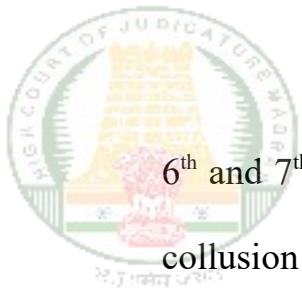
3.1. The last Will and Testament of Mr. Azhagirisamy was duly executed on 02.04.1973. The amount of assets which are likely to come into the hands of the petitioners is approximately Rs.11,00,000/-. Except the petitioners and the respondents, there is no other next of kin to the deceased. One Mr.R. Kannan, a third party, who is well acquainted with the signatures of the Testator and the attesting witnesses, was examined as PW2.



4. This original petition was initially filed by the petitioner Veerammal.

During the pendency of the petition, owing to the death of the petitioner, 2 to 4 respondents and 8 to 10 respondents were transposed as petitioners 2 to 7 as per the order of this Court dated 20.09.2022. On the side of the petitioners, PW1 and PW2 were examined and Ex.P.1 to Ex.P.11 were marked.

5. PW1, the 3rd petitioner herein, has reiterated the petition averments and further stated that her mother is Veerammal, her paternal grandfather is Mr. Azhagirisamy and during the life time of the deceased Azhagirisamy, he had executed his last Will and Testament dated 02.04.1973 in the presence of two witnesses bequeathing his properties in favour of his son and daughter-in-law, who are the parents of PW1 and no executor was appointed as per the said Will. The said Azhagirisamy died leaving behind his only son A. Kaveri. The father of PW1 namely Mr. A. Kaveri died intestate on 07.01.2009 leaving behind his wife Veerammal and children namely K. Jayaraman, K.. Sivaraman, K. Kannan, K. Sethuraman, Ms. Bagyalakshmi, Ms. Kasthuri and Ms. Parameshwari. As per the said Will, the mother and father of PW1 are equally entitled to half share in the properties of Late Mr. Azhagirisamy. Her mother Veerammal settled her share in favour of her sons namely K. Sethuraman, K. Jayaraman, K. Sivaraman and K. Kannan. The 1st respondent K. Sethuraman, the brother of PW1, died leaving behind his wife / the 5th petitioner, daughters /



6th and 7th petitioners. While so, the respondents Bagyalakshmi and Kasturi, in collusion with Mrs. Parameshwari, had filed a Suit in O.S. No.1090 of 2010 on the file of II Assistant Court, Chennai and the same was decreed. Against which, the mother of PW1 namely Veerammal and other petitioners have filed A.S. No.233 of 2016 on the file of VI Additional City Civil Court, Chennai and the same is pending for consideration. During the pendency of this original petition, the mother of PW1 namely, the 1st petitioner, died 16.01.2020. From the death of PW1's mother, she and her brothers are only paying the Electricity bills and property tax etc., in respect of the entire property and the respondents 2 to 4 did not pay a single pie towards the said expenses.

6. The Will dated 02.04.1973 is more than 50 years old Will, which was executed by the deceased Mr. Azhagirisamy in the presence of the attesting witnesses. The original Will has been marked as Ex.P.1 by PW1. Since the Will is a 50 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.R. Kannan, who is acquainted with the signatures of the Testator Mr. Azhagirisamy and the attestors, has been examined as PW2. He has deposed that he knows the Testator as his relative, he knew that Ex.P.1 Will has been executed by Mr. Azhagirisamy Chettiar in favour of his son Kaveri and his daughter in law Veerammal and he executed the said Will on 02.04.1973. He knew both the attesting witnesses Paramasivan and Rajamani. He has identified the signatures of two attesting witnesses.

8. A perusal of evidences of PW1 and PW2 and Ex.P.1 to Ex.P.11 revealed that the petitioners and the respondents are the legal heirs of the deceased Mr. Azhagirisamy. No any objection has been raised either by the respondents or any other party to grant letter of administration to the petitioners 2 to 7. Therefore, the petitioners 2 to 7, through the evidences and documents, have amply proved the execution of Will. Therefore, the petitioners 2 to 7 are 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 Mr. Azhagirisamy in favour of the petitioners, is granted. The connected miscellaneous petitions are closed.

10. Issue Letters of Administration in favour of the petitioners 2 to 7. The petitioners 2 to 7 are directed to duly administer the properties and credits of the deceased more fully described in the schedule. The petitioners, each are 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 petitioners 2 to 7 are further directed to render true and correct accounts once in a year.

30-01-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MJS

APPENDIX:

List of Petitioner side Witnesses:

PW1	:	Mr. K. Sivaraman
PW2	:	Mr.R. Kannan

**List of Petitioner side Documents:**

Exhibit No.	Date	Description of Documents.
Ex.P.1.	02.04.1973	Original Will executed by the deceased Mrs. S. Muniammal.
Ex.P.2	-	Computer generated Death Certificate of Mr. K. Sethuraman.
Ex.P.3	-	Photocopy of the Legal Heirship Certificate of Mr. Sethuraman.
Ex.P.4.	-	Photocopy of the Death Certificate of Mr. A. Kaveri.
Ex.P.5	-	Photocopy of the Legal Heirship Certificate of Mr. Azhagirisamy.
Ex.P.6	-	Original Death Certificate of Mr. Azhagirisamy.
Ex.P.7	-	Photocopy of the Legal Heir Certificate of Mr. A. Kaveri.
Ex.P.8.	-	Affidavit of assets showing the net value of the estate as Rs.11,00,000/-.
Ex.P.9.	19.05.2018	Copy of the paper publication effected in one issue of Tamil daily “Malai Sudar”.
Ex.P.10	31.05.2018	Copy of the paper publication effected in one issue of English daily “News Today”.
Ex.P.11	-	Photocopy of PW2’s Aadhar Card.

30-01-2026



WEB COPY

OP No. 446 of 2



P.DHANABAL, J.

MJS

OP No. 446 of 2015

30-01-2026