

E.Shanmugam vs / on 29 October, 1989

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 13.11.2024

Pronounced on: 15.11.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Original Petition No.310 of 2024

E.Shanmugam.

... Petitioner

/versus/

1. Thiru.S.Senthilvel Murugan,
2. Thiru.S.Siva Shanmugam,
3. Thiru.S.Mohan,
4. Tmt.Dr.P.Anuradaa,
5. Thiru.Karthikeyan Ramalingam,
6. Thiru.P.N.Shivakumar,
7. Thiru.P.N.Rajan Babu,
8. Tmt.N.Gowri,
9. Tmt.K.Jothi,
10. Thiru.R.Murugan,
11. Tmt.J.Adhilakshmi,
12. Tmt.K.Malarkodi,
13. Tmt.R.Leelavathi,
14. Thiru.V.N.Munisamy,
15. Selvi.N.Tamil Selvi,
16. Thiru.R.Appaji,
17. Tmt.K.Vijayalaxmi,
18. Selvi R.Malathi,
19. Tmt.S.Valli,
20. Tmt.R.Rajeswari,

... Respondents

PRAYER: Original Petition has been filed under Section 232 and 276 of Indian Succession Act, 1925) & under Order XXV Rule 5 of the Original Side Rules for the Grant of Letters of Administration of the Will dated 29.10.1989 by T.T.R.Rathnambal Ammal to the petitioner her

<https://www.mhc.tn.gov.in/judis>

1/10

O.P.No

grandson/beneficiary under the Will of deceased and to have effect limited to the State of Tamil Nadu.

For Petitioner : Mr.R.Bharadwajaramasubramanian
For R1 to R14,

R16 to R20 : Mr.S.T.Bharath Gowtham.
For R15 : No appearance

ORDER

The petition is filed under Section 232 and 276 of Indian Succession Act, 1925 and under Order XXV, Rule 5 of Original Side Rules for grant of succession certificate in the matter of the Last Will of Late T.T.R.Rathinambal Ammal W/o.Raja Mudaliar.

2. The petitioner is the grand son of Late T.T.R.Rathinambal Ammal. The respondents 1 to 20 are her other descendants. During her life time, T.T.R.Rathinambal Ammal had acquired immovable properties and shares in various companies. In respect of those properties, she had executed a Will on 29/10/1989 and got it registered at District Registrar, Madras South, under registered document No:60/1989, on 29/10/1989. Under this Will T.T.R.Rathinambal Ammal had bequeathed her immovable properties items 1 and 2 more fully described as Schedule-A and Schedule-B in the petition, to and <https://www.mhc.tn.gov.in/judis> in favour of this petitioner Mr.E.Shanmugam S/o.Ethiraj, without naming anyone as the Executor of the Will.

3. Tmt.T.T.R.Rathinambal Ammal – Raja Mudaliar couple had 5 children. They are:-

1) P.N.Dhanalaxmi Ammal, 2) R.Krishnammal, 3) N.Durgabai, 4) R.Viruthambal and 5) Vasantha.

(i) The first daughter P.N.Dhanalaxmi Ammal died on 16/12/2008 leaving behind her sons P.N.Shivarajan (died), P.N.Ramalingam,(died) P.N.Thirunavukarasu (died), P.N.Shiva Kumar & P.N.Rajan Babu and her daughters N.Gowri, W/o Narashiman & K.Jothi, W/ o Karthikeyan.

(ii) The legal heirs of the first daughter P.N.Dhanalaxmi Ammal viz deceased sons P.N.Shivarajan died on 02.08.1982 left behind (1) S.Senthilvel Murugan (2) S.Siva Shanmugam & (3) S.Mohan, as his legal heirs and P.N.Thirunavukarasu died as a bachelor on 25.05.2000.

(iii) The second daughter R.Krishnammai (died on 25.06.2009) left behind her son R.Murugan, and her daughters J.Adhilakshmi, K.Suguna (Died <https://www.mhc.tn.gov.in/judis> on 13.03.2023), M.Malarkodi & R. Leelavathi.

(iv) The third daughter N.Durgabai (died on 22.10.1997) had left behind her sons, V.N.Munusamy & V.N.Rajasekar (died on 16.09.1997) and her daughters K.Malarkodi W/o.Kotteswaran & N.Tamilselvi.

(v) The legal heir of the third daughter viz deceased son V.N.Rajasekar died as a bachelor on 16.09.1997.

(vi) The fourth daughter R.Viruthambal died on 21.11.2015 and has left behind her son R: Appaji and her daughters K.Vijayalaxmi and R.Malathi.

(vii) The fifth daughter E.Vasantha died on 21.10.2017 and has left behind her son E.Shanmugam and her daughters S. Valli and R. Rajeshwari.

4. The petitioner states that, earlier in the year 2012 when he attempted to file petition for grant of succession certificate, all the legal heirs of T.T.R.Rathinambal Ammal except P.N.Ramalingam (since deceased) gave their consent affidavit. However, due to other pre occupation, he did not pursue the <https://www.mhc.tn.gov.in/judis> petition then. To the present suit all the respondents except the 15 respondent namely, N.Tamil Selvi who is the daughter of Durgabai. (third daughter of T.T.R.Rathinambal Ammal) had given their consent. As far as Tamilselvi, notice by substitute service effected but she has not objected for grant of letters of administration.

5. The petitioner states that the value of the assets likely to come to his hand does not exceed in aggregate sum of Rs.1,98,80,089/- and no application filed before any District Court or any other court for probate or letters of administration with or without will annexed for T.T.R.Rathinambal Ammal property or credits. He has also declared that except the named respondents in the petition, the deceased had left no other legatee as per the Hindu Succession Act.

6. The petitioner being the beneficiary under the will, undertakes to pay first the debts of T.T.R.Rathinambal Ammal and then the legacies therein bequeathed so far as the assets will extend and to make a full and true inventory thereof and exhibit the same in the Court within six months from the date of grant of Letters of Administration of the WILL annexed to the petition. Also undertakes to render the accounts of the said property and credits within one <https://www.mhc.tn.gov.in/judis> year from the said date.

7. To prove the due execution of the Will of late T.T.R.Rathinambal Ammal, the petitioner/beneficiary. E.Shanmugam as P.W-1 and R.Appaji (Respondent-17)/one of the attesting witness as P.W-2 were examined. Ex.P-1 to Ex.P-14 marked.

8. From the sale deeds Ex.P-1 and Ex.P-2, T.T.R.Rathinambal Ammal's ownership over the Schedule-A and Schedule-B property stands proved. Ex.P-4, the death certificates proves that T.T.R.Rathinambal Ammal died on 27/01/1990 at Jawaharlal Nehru Street, Kalambur, Tiruvannamalai District. Ex.P-3 is the registered Will of T.T.R.Rathinambal Ammal dated 29/10/1989.

9. P.W-2 the second attesting witness had deposed that he saw T.T.R.Rathinambal Ammal affixing her left thumb impression on the Will and at the time of the execution of the Will, the said T.T.R.Rathinambal Ammal was in good and sound disposition of mind. His mother Virthammal signed as first attesting witness. His uncle Neelakandan (father of R-13 and R-14) was also present at the time of the execution of the Will.

<https://www.mhc.tn.gov.in/judis>

10. The genealogy tree of the family is marked as Ex.P-8. The genealogy tree indicate T.T.R.Rathinambal Ammal had 5 daughters and the petitioner is the son of her last daughter by name, E.Vasanth. P.W-2 is the son of her fourth daughter Viruthambal. Along with the petition, the consent affidavit of the respondents except N.Tamilselvi (Respondent 15) is filed. The said Tamilselvi has not filed any caveat or objection to the grant of succession certificate to the petitioner. Ex.P-11 and Ex.P-12 are the paper publications in Tamil and English daily inviting objection from the public. No one had filed their objection.

11. Thus, the documents filed by the petitioner satisfies the Court that he is the beneficiary under the Will annexed to the petition executed by T.T.R.Rathinambal Ammal and the execution of the said Will is duly proved as required under section 67 of Bharatiya Sakshya Adhiniyam, 2023.

12. Accordingly, this Original Petition is Allowed. The Letters of Administration is ordered to be issued in favour of the petitioner herein. The petitioner has to first pay the debts of T.T.R.Rathinambal Ammal and then, the legacies therein bequeathed so far as the assets will extend and to make a full <https://www.mhc.tn.gov.in/judis> and true inventory thereof and exhibit the same in the Court within a period of six months from the date of grant of Letters of Administration of the last WILL of T.T.R.Rathinambal Ammal W/o.Late.T.T.Raja Mudaliar which is annexed to the petition. The petitioner is directed to execute a security bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) in the name of the Assistant Registrar (O.S-II) of this Court. The petitioner shall render the accounts of the said property and credits within one year from the date of this order.

Index : Yes/No.
Internet : Yes/No.
bsm
Petitioner's witness:-
P.W.1 – Mr.E.Shanmugam.
P.W.2 – Mr.R.Appaji

Documents marked:-

Exhibits

Documents

Ex.P.1 Photocopy of the sale deed dated 27.07.1984 executed in favour of Mrs.T.T.Rathinambal.

Ex.P.2 Photocopy of the sale deed dated 24.08.1987 executed in favour of Mrs.T.T.Rathinambal.

Ex.P.3 Original registered Will dated 29.10.1989 executed by Mrs.T.T.R.Rathnambal Ammal.

Ex.P.4 Original death certificate of Mrs.R.Rathinammal. Ex.P.5 Computer generated death certificate of Mr.M.Ethiraj. Ex.P.6 Computer generated legal Heir ship certificate of Mr.M.Ethiraj. Ex.P.7 Computer generated death certificate of Mr.P.N.Ramalingam. Ex.P.8 Genealogy.

<https://www.mhc.tn.gov.in/judis> Exhibits Documents Ex.P.9 Certificate under Section 65B of Indian Evidence Act. Ex.P.10 Affidavit of assets showing the net value of the estate as Rs.1,98,80,089/-.

Ex.P.11 Copy of the paper publication effected in one issue of Tamil daily “Makkal Kural” dated 21.08.2024.

Ex.P.12 Copy of the paper publication effected in one issue of English Daily “Trinity Mirror” dated 29.08.2024.

15.11.2024 <https://www.mhc.tn.gov.in/judis> Dr.G.JAYACHANDRAN,J.

bsm Pre-delivery order made in Original Petition No.310 of 2024 15.11.2024
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