KABR010019632024

IN THE COURT OF IX ADDL DISTRICT AND SESSIONS JUDGE, BENGALURU RURAL DISTRICT, BENGALURU.

DATED THIS THE 27th DAY OF NOVEMBER, 2024

PRESENT: **SMT.SHILPA K.S,**
B.AL, LL.M.,
IX Addl. District & Sessions Judge,
Bengaluru Rural District, Bengaluru.

P & SC No.33/2024

PETITIONER : Smt.Sheela.S.,
D/o Late Chikkavenkatashamireddy,
W/o Shubhakar B.P.,
Aged about 45 years,
R/At. Flat No. 503, Y Block,
Tower 1, Adarsh Palm Retreat
Apartment, Devarabisanahalli,
Bellandur, Bengaluru-560103.

(By Smt. P.R. - Advocate)

V/s

RESPONDENT : NIL

***

O R D E R S

This petition is presented by the GPA holder of the petitioner U/sec.278 and 290 of Indian Succession Act, 1925 and prayed

to grant letters of Administration in respect of the Will dated 10.02.2003 executed by Sri.Chikkavenkataswamyreddy, Suresh reddy and Babu reddy and such other relief.

2. In the petition, it is stated that the schedule properties are the ancestral properties of one late Muniswamy reddy and his wife Smt.Venkatamma. After their demise the schedule properties were inherited by their sons namely Chikkavenkataswamyreddy, Suresh reddy and Babu reddy. The schedule properties were standing jointly in the names of Chikkavenkataswamyreddy, Suresh reddy and Babu reddy and they were in peaceful possession and enjoyment of the same. That during the life time of Chikkavenkataswamyreddy, Suresh reddy and Babu reddy they have executed the will in favour of the petitioner on 10.02.2023 bequeathing the schedule properties in her favour. As per the recitals the petitioner was looking after the said Sri.Chikkavenkataswamyreddy, Suresh reddy and Babu reddy by providing all necessities and

requirements. The said Sri.Chikkavenkataswamyreddy, Suresh reddy and Babu reddy have also performed the marriage of the petitioner by spending marriage expenses. The said Chikkavenkataswamyreddy died on 12.09.2016, Suresh reddy died on 11.06.2020 and Babu reddy died on 22.02.2005 by leaving the petitioner and the will. Since then the petitioner is the owner and in possession of the schedule property. That very recently the petitioner found the will in the house and then she had contacted the revenue authorities to effect khata in her name. But they have directed to produce succession certificate. The said Sri.Chikkavenkataswamyreddy, Suresh reddy and Babu reddy have executed the Will with their free will and volition and they were in sound and disposing state of mind to bequeath the property as a mark of love and affection. As per the will the petitioner is having right over the property. Hence this petition.

3. After presenting this petition, since there are no respondents, the petitioner has taken notice of this petition to the general public and published the same in the 'Hosadigantha' daily news paper. None have appeared before the court either to object the petitioner from obtaining letters of Administration or to make any independent claim.

4. The petitioner in order to prove her case has got examined herself as PW.1 and got marked five documents as per Ex.P.1 to 5 and closed her side.

5. Heard the counsel for petitioner.

6. From the above facts, the following points that arise for my consideration:

1] Whether the petitioner has made out a ground to grant Letters of Administration in respect of the Will dated 10.02.2003 pertaining to petition schedule properties?

2] What order?

7. My findings to the above points are as follows:-

Point No.1 :- In Negative

Point No.2 :- As per final order for the following;-

-:R E A S O N S:-

8. ***Point No.1 :*** The petitioner has filed this petition seeking for issuance of letters of administration in her favour. After taking paper publication nobody has appeared to oppose the petition. In order to prove her case the petitioner has got examined herself as PW.1 and reiterated every averments of the petition in her affidavit. The oral testimony of the PW.1 has remained intact and unimpeached.

9. Further the petitioner in support of her oral evidence has got marked the original will as per Ex.P.1. On perusal of the said will it reveals that the said Sri.Chikkavenkataswamyreddy, Suresh reddy and Babu reddy have bequeathed their properties to the petitioner through will. The Ex.P.2 and 3 are the death

certificates of Sri.Chikkavenkataswamyreddy and Suresh reddy. The Ex.P.4 and 5 are the RTC and mutation registers with respect to the petition schedule properties.

10. Further the petitioner in order to prove valid execution of the Will, has not got examined any of the attesting witness or other witnesses in order to prove that the will was executed by late Sri.Chikkavenkataswamyreddy, Suresh reddy and Babu reddy by affixing their signatures and in presence of the attesting witnesses who have affixed their signatures on the Will. Hence there is no reliable evidence to believe that the will was executed by Sri.Chikkavenkataswamyreddy, Suresh reddy and Babu reddy out of their free Will and violition and without any coercion, undue influence or mis-representation. Even there is no believable evidence to show that the late Sri.Chikkavenkataswamyreddy, Suresh reddy and Babu reddy were in sound state of mind and capable of disposing of their properties at the time of execution of Will dated 10.02.2003.

11. Now the question of consideration before the court is whether the petitioner is entitled to seek letter of Administration in respect of the Will dated 10.02.2003. It is to be noted here that the petition did not disclose the cause of action to seek the relief of letter of administration.

12. Further this petition is filed claiming for issuance of letters of administration also. The section 218 of Indian Succession Act defines regarding issuance of letters of administration. It says where deceased is a Hindu, Mohammeden, Buddist, Sikh, Jain or exempted person.

13. It further says that if the deceased had died intestate and was a Hindu, Mohammeden, Buddist, Sikh, Jain or exempted person, administration of his estate may be granted to any person who, according to the rules for the distribution of the estate applicable in the case of such deceased, would be entitled to the whole or any part of such deceased estate.

14. But in the instant case the deceased Munithimmakka had not died intestate. Therefore, no question of issuance of Letter of Administration arise. In view of my above discussions, the petition is devoid of merits and as such the petitioner is not entitled to seek any relief much less the relief claimed in the petition. Hence, I answered **point No.1 in negative**.

15. **Point No.2** ***:*** For the reasons given to point No.1, I proceed to pass the following:

O R D E R

The petition filed by the petitioner under Section 278 and 290 of Indian Succession Act is dismissed.

No order as to costs.

(Dictated to the Judgment Writer directly on computer, got typed by her, corrected, signed and then pronounced by me in the open court on this the **27th day of November, 2024**)

(Smt.SHILPA K.S)
IX Additional District Judge,
Bengaluru Rural District,
Bengaluru.

A N N E X U R E

Witnesses examined on behalf of petitioner:

PW.1 - Sheela.S.

Documents Admitted for Prosecution

Ex.P.1 - Original Will dt 10-02-2003

Ex.P2 - C/c of death certificate of Chikkavenkataswamy Reddy

Ex.P3 - C /c of death certificate of Suresh K.M.

Ex.P4 - Digital copy of RTC extracts of Sy.No.76,80,81,89

Ex.P5 - Two digital copy of mutation register copy

Witnesses examined on behalf of respondent :

NIL

Documents Admitted for respondent :

NIL

IX Addl. Dist & Sessions Judge,
Bangalore Rural District,Bangalore.