



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

MISCELLANEOUS FIRST APPEAL NO.5825 OF 2024 (ISA)

BETWEEN:

MRS. SHEELA SAIMANI ALIAS SHEELA KRISHNAN,
AGED ABOUT 61 YEARS,
W/O SAIMANI SAKTHIVEL,
D/O LATE DORASWAMY KRISHNAN,
PERMANENT R/AT: 201/388,
STERLING HERITAGE SHANKAR,
MATHAM ROAD,
NEARBY SYNDICATE BANK,
MATUNGA C.R.
MUMBAI-400019

ALSO AT
R/AT APARTMENT NO.11C,
WOOD CREEK TERRACES,
2ND FLOOR, CORPORATION NO.115,
DEFENSE COLONY, H.A.L. 2ND STAGE,
BANGALORE-560008.

Digitally signed by
MAHALAKSHMI B M
Location: HIGH
COURT OF
KARNATAKA

...APPELLANT

(BY SRI SAMARTH PRAKASH, ADVOCATE)

AND:

NIL

...RESPONDENT

THIS MFA IS FILED UNDER SECTION 299 OF INDIAN SUCCESSION ACT, AGAINST THE ORDER DATED 27.09.2023 PASSED IN P AND S.C.NO.57/2023 ON THE FILE OF THE XLI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU CCH-42 PARTLY ALLOWING THE PETITION FILED UNDER SECTION 278 R/W SECTION 290 AND 307 OF INDIAN SUCCESSION ACT.



THIS APPEAL COMING ON FOR 'ORDERS', THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MRS. JUSTICE K.S. HEMALEKHA

ORAL JUDGMENT

This Miscellaneous First Appeal is preferred by the appellant/petitioner assailing the order dated 27.09.2023 in P & S.C. 57/2023 on the file of XLI Additional City Civil and Sessions Judge, Bengaluru, CCH 42, ('the trial Court' for short) whereby the petition filed by the petitioner under Sections 278 read with 290 and 370 of the Indian Succession Act, 1925 ('ISA Act' for short) came to be allowed in part by issuing letters of administration in favour of the petitioner. However, the petitioner's prayer for declaration and permission to dispose of the suit schedule property came to be dismissed.

BRIEF FACTS

2. The appellant is the daughter and claims to be the sole legal heir of late Doraswamy Krishnan and late Sushila Krishnan. The father of the petitioner passed away



on 22.12.2013 and the mother died intestate on 08.05.2022. During the lifetime, the parents had jointly purchased an apartment bearing number II C in 'Wood Creek Terraces' under a registered sale deed dated 16.09.1991. Subsequently, the father executed a registered Will dated 25.10.2000 bequeathing the property in favour of his wife, Sushila Krishnan who, upon his demise became the absolute owner and continued to pay taxes. After the death of the mother *inte state*, the appellant being the only class I legal heir, inherited the property. The appellant who is residing in Mumbai, found it difficult to administer the property and intended to dispose of the same, however the prospective purchaser insisted on production of letter of administration which necessitated filing of a petition under the ISA Act before the trial Court.

3. Learned counsel for the appellant contends that the appellant is the undisputed sole legal heir of the deceased parents and has succeeded to the estate by



operation of law under the Hindu Succession Act. It is contended that there are no rival claims to the property and that public citation was issued in a newspaper, yet no objections were received. The learned counsel further contends that the appellant and her mother have been regularly paying taxes in respect of the property, thereby evidencing lawful possession and enjoyment. It is urged that in the absence of any contest and in view of the uncontroverted documentary evidence, the trial Court ought to have granted a relief of declaration and letters of administration in full. The denial/partial grant of relief is contended to be contrary to law, evidence and settled principles governing succession.

4. The trial Court upon consideration of the material on record recorded a finding that the petitioner has proved that late Sushila Krishnan died *inte state* and that the petitioner is a legal heir. However, while answering the issues the Court held that the entitlement of the petitioner only partly in the affirmative, thereby granting the relief in



part and not in entirety. The trial Court thus did not fully accede to the prayer for comprehensive relief, including complete authority to administer and dispose of the property. The trial Court recognized the petitioner as the sole legal heir establishing legal ownership. When a letter of administration is granted, the holder becomes an administrator of the estate.

5. Section 307 (2) (ii) (a) of the Indian Succession Act, 1925 reads as under:

"307. Power of executor or administrator to dispose of property.—

(2) If the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, the general power conferred by sub-section (1) shall be subject to the following restrictions and conditions, namely:—

(i). xx xxx

(ii)An administrator may not, without the previous permission of the Court by which the letters of administration were granted,—(a)mortgage, charge or transfer by sale, gift, exchange or otherwise any



*immovable property for the time being vested in
him under section 211,*

xx xxx"

The section prohibits the administrator from disposing of (selling, mortgaging, gifting) immovable property without the Court permission, if there are other beneficiaries or heirs involved. However, the situation is different if the administrator is the sole legal heir and beneficiary, they can deal with the property as their own absolute property without obtaining the Court permission, as there are no competing interests to protect. If there are other heirs, the administrator cannot dispose of the property without obtaining the necessary probate or Court permission. Any disposal of the property in contravention of this Section is liable to be challenged by any other person interested in the property (i.e., the other heirs). Therefore, if the administrator is the sole heir, the restriction on sale is generally not applicable, if one of among several heirs, they must act according to the restrictions imposed under Section 307.



6. The Apex Court in the case of ***Ajit K Saha vs Nagendra N Saha and Another***¹ (*Ajit K Saha*) has held at paragraph No.13 as under:

"13. The question then arises -- was Panchurani still administering the estate of her husband? The mere fact that Letters of Administration were obtained by Panchurani and orders have been passed in such proceedings upto December 21, 1946, does not necessarily mean that the estate of the deceased husband was still under administration and that Panchurani could only function as administratrix under Section 211 of the Indian Succession Act. The administration of the estate would be complete when the assets of the estate are realised and the debts due by the estate are all paid off. It would also be complete if the debts due by the estate are all time-barred and the estate is not legally liable to pay any other creditor. When the administration is completed in the sense that the debts due by the deceased are all paid off and/or are no longer enforceable in law, the widow or heiress would be in possession of the estate no longer as administratrix under Section 211 of the Indian Succession Act but she would be administering her own estate on her own right as

¹ AIR 1960 Cal. 484



heiress. As such, she is entitled to deal with her own estate without any leave of the court under Section 307 of the Indian Succession Act. (See In re; Estate of Indrani ; In the Goods of Nursingh Chunder, 3 Cal WN 635, and Lakshmi Narain v. Nandarani, 9 Cal LJ 116.)....."

7. Placing reliance on the decision of the Apex Court, the Co-ordinate Bench of this Court, in the case of ***Ms. S. Neelamma vs Nil*** MFA² (*Neelamma*) which is relied on by the learned counsel for the appellant, has held at paragraph Nos.10 to 15 as under:

"10. The point that arises for consideration in this appeal is:-

"Whether the rejection of permission to sell the property by the impugned order is liable to be set aside?

11. The admitted facts being that the Letter of Administration was sought for by the Bangalore Development Authority when the Khatha was sought to be transferred into the petitioner's name and it is for this limited purpose that the

² 7587/2017, DD 5.11.2018



Letter of Administration was applied for and obtained. The Khatha having been transferred to the petitioner's name on 12.06.2017, the purpose for which the Letter of Administration was obtained stood satisfied. There was no debt or legal liability of the deceased that was required to be satisfied and hence, nothing more was left for the administration of the estate of the deceased.

12. The petitioner relies on the judgment in the case of Ajit K. Saha vs. Nagendra N. Saha & Another reported in AIR 1960 Cal. 484 and the observations relevant to the present case at para-13 are as follows:-

"13. The question then arises – was Panchurani still administering the estate of her husband? The mere fact that Letters of Administration were obtained by Panchurani and orders have been passed in such proceedings upto December 21, 1946, does not necessarily mean that the estate of the deceased husband was still under administration and that Panchurani could only function as administratrix under Section 211 of the Indian Succession Act. The administration of the



estate would be complete when the assets of the estate are realised and the debts due by the estate are all paid off. It would also be complete if the debts due by the estate are all time-barred and the estate is not legally liable to pay any other creditor. When the administration is completed in the sense that the debts due by the deceased are all paid off and/or are no longer enforceable in law, the widow or heiress would be in possession of the estate no longer as administratrix under Section 211 of the Indian Succession Act but she would be administering her own estate on her own right as heiress. As such, she is entitled to deal with her own estate without any leave of the court under Section 307 of the Indian Succession Act. (See In re; Estate of Indrani; MANU/UP/0304/1930 : AIR 1931All212 ; In the Goods of Nursingh Chunder, 3 Cal WN 635, and Lakshmi Narain v. Nandarani, 9 Cal LJ 116.)....."

13. *Accepting the observations made in the above case, it can be said that in the facts of the*



present case, the role of the petitioner had come to an end in the capacity of an administrator, once the Khatha stood transferred into the name of the petitioner. The fact that property was not subjected to any obligation/liability of the deceased, which is not forthcoming despite public notice as regards the application would point out that administration of the estate of the deceased was no longer necessary. The Trial Court has erred in rejecting the application through self imposed fetters by observing that it is exercising power of testamentary jurisdiction for grant of Letter of Administration only. The Court ought to have clarified that the question of entertaining the application did not arise in light of the observations made in para No.12 above.

14. The Trial Court ought to have taken note of the fact that the petitioner was the sole heir and hence ought to have held that the petitioner consequent to having obtained change of Khatha was no more exercising rights of administrator, but was exercising rights as a true owner, having inherited the property as a legal heir. Accordingly, the application itself ought to have been disposed of as being superfluous.



15. The Trial Court has adopted an erroneous approach in directing the petitioner to establish title over the schedule property before the Civil Court. In the absence of any dispute, the petitioner's right to succession needs no declaration and vesting of ownership upon the death of the petitioner's husband is by operation of law."

8. Upon re-appreciation of the entire material on record, this Court finds that the appellant had established a status as a sole legal heir of the deceased beyond any dispute. The documentary evidence including the sale deed, Will, death certificate and tax records demonstrate succession of the property first to the mother and thereafter to the appellant. It is not in dispute that public notice was also issued and no objections were received from any quarter, thereby ruling out any competing claims. In a proceedings under the ISA Act, particularly when petition is uncontested and legal heirship is clearly established, the Court ought not to deny or curtail the relief sought without assigning cogent reason. The findings



of the trial Court granting relief only in part despite categorical proof of entitlement is unsustainable. The trial Court has failed to properly appreciate the legal consequence of intestate succession and absence of rival claims and thus erred in not granting a complete relief. In a petition under the Indian Succession Act, 1925, particularly for grant of letters of administration, the following legal principles govern :

- (i) where the applicant establishes that she is the sole legal heir of the deceased and estate devolves upon her under a personal law, the Court is bound to grant letter of administration unless there exists a rival claim or legal impediment.
- (ii) issuance of a public citation and absence of objection creates a presumption of absence of competing claim, and in such uncontested proceedings, denial or curtailment of relief must be supported by cogent reasons.



- (iii) In a proceedings under the Act, the Court does not adjudicate title dispute, but only determines entitlement to represent and administer the asset.

9. Therefore, once a legal heirship and death *in te state* are proved, the relief ordinarily follows. Partial grant or refusal of letter of administration, despite clear proof of sole heirship and absence of contest, is legally unsustainable, being contrary to the scheme of the Act. The petitioner/appellant having been declared as the only heir and there are no outstanding debts against the deceased, the sale should proceed after obtaining a 'NOC certificate', from the relevant authorities to establish that the property is not encumbered. This Court finds that the appellant is entitled for grant of administration to administer and to deal with the suit schedule property in the manner stated above and accordingly this Court pass the following :



ORDER

- (i) The Miscellaneous First Appeal is ***allowed.***
- (ii) The order dated 27.09.2023 in P & S C. 57/2023 on the file of XLI Additional City Civil and Sessions Judge, Bengaluru, is hereby ***modified.***
- (iii) It is declared that the appellant is the sole legal heir of late Doraswamy Krishnan and late Sushila Krishnan. Consequently the appellant is entitled for grant of letter of administration in respect of the suit property.
- (iv) The competent Court shall issue the letters of administration in favour of the appellant in accordance with law subject to the compliance of usual formalities including payment of



requisite court fee and execution of necessary bonds, if any.

- (v) The appellant is permitted to administer and deal with the schedule property including its disposal as indicated above in accordance with law.

Sd/-

JUSTICE K.S. HEMALEKHA

CKL

List No.: 1 Sl No.: 63