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Cherichi Vs. Ittianam

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Court : Kerala

Decided On : Dec-06-2000

Reported in : AIR2001Ker184

Judge : Mr. K.S. Radhakrishnan and; Mr. G. Sasidharan, JJ.

Acts : Succession Act, 1925 - Sections 213; Registration Act, 1908 - Sections 31, 47, 59, 60 and 61; Transfer of Property Act - Sections 54 and 70; Kerala Registration Rules- Rule 50

Appeal No. : M.F.A. No. 44 of 1990

Appellant : Cherichi

Respondent : ittianam

Advocate for Def. : N. Subramanian,; M.S. Narayanan and; C.M. Rajan, Adv

Advocate for Pet/Ap. : N.P. Samuel, Adv.

Judgement :

C. Sasidharan, J.

1. O.P. No. 138 of 1986 was filed by the respondents in this appeal in the Court of the District Judge, Trichur for granting letters of administration in respect of a Will alleged to have been executed by Kakkassery Ippuru on 8.5.1967. Since the

appellant who was the respondent in the above Original Petition raised the contention that ippuru did not execute the Will as alleged by the respondents, the Original Petition was converted as a suit, a contentious proceeding and if was tried and disposed of by the learned District Judge. The learned District Judge found that Ext. A1 Will was executed by Ippuru and directed granting of letters of administration in respect of the Will in favour of the first respondent.

2. Kunhiri was the first wife of Ippuru and they had a son by name Vareed and a daughter, the 6th respondent Kunhitti alias Molutty. After the death of the first wife, Ippuru married the 7th respondent and in that marriage, Ippuru had two daughters, Mariyamma and Padmini alias Cherichi, the appellant. Vareed died on 8.1.1986 and the first respondent is his wife and respondents 2 to 5 are his children.

3. Ext. A1 Will is stated to have been executed by Ippuru on 8.5.1967. Execution of Ext. A1 Will by Ippuru is denied by the appellant. The contentions that Ippuru was suffering from Paralysis and that he was not of sound mind and was not in a position to take care of himself and that even if a Will was executed by Ippuru, it would have been executed under coercion and undue influence exerted by the legalce were taken up by the appellant. A suit, O.S. No. 220 of 1986 was filed by the present appellant inthe Munsiff's Court, Chavakkad for partition. Then the respondents in this appeal filed the petition for grant of letters of administration. As per the provisions of Ext. A1 Will, items 1 to 3 are seen to have been given to the 6th respondent, the daughter of Ippuru in his first marriage. On reserving life estate in favour of the second wife, the 7th respondent, items 4 to 7 were given to Vareed. There is also a direction in the Will that Vareed had to give Rs. 2000/- each to the 8th respondent and the appellant who are the daughters of Ippuru in his second marriage.

4. The respondents have a case that the appellant sent a notice demanding partition of the properties which belonged to Ippuru to which respondents 1 to 5 sent a reply and that the appellant got possession of the original Will from the 6th respondent by saying that the Will had to be shown to her husband and thereafter she did not return the Will to the 6th respondent. It is stated that after getting possession of theWill, the appellant filed O.S. 220 of 1986 for partition of the

properties. Thereafter the petition for granting letters of administration was filed in the District Court, Trichur.

5. This is a case in which the original Will is not forthcoming. There were two attestors to the Will Krishnan Nambidi and Varghese. The Will was a registered one and Ext. A1 is the attested copy of the Will. It is seen from Ext. A1 that the above two persons were attestors to the Will. There is no dispute that before taking evidence in the case, the above two attestors died. The first respondent who gave evidence as PW. I said that both the attestors died and that version was not challenged by the appellant. The son of Krishnan Nambidi who was an attestor to the Will was examined as PW. 3 and he said that his father Nambidi died in June, 1988. At the time of taking evidence in the case, the Will could not be proved by examining any of the attestors. So what the respondent did was to try to prove the execution of Ext. A1 Will by other evidence which is permissible under law.

6. The Will was registered in the house of Ippuru. The Sub Registrar went to the house of Ippuru for the purpose of registering the Will on the request of Ippuru. PW. 2 is one of the identifying witnesses to the Will. He is a taxi driver and it is stated that it was in his taxi that the Sub Registrar went to the house of Ippuru on the date of registration of the Will. In the house of Ippuru, the Will as well as a sale deed executed by the second wife in favour of Ippuru in respect of 1/2 right in item Nos. 4 to 7 were registered on the very same day. The evidence of PW. 2, the taxi driver is relied on by the respondents to prove examination of the Will. There is also the evidence of PW. 4. the first respondent who would say that she had seen Ippuru and the attestors putting their signatures in the Will. The evidence of PW. 5, the Sub Registrar is regarding registration of the Will. PW. 5 says that he registered the Will after satisfying that the executant had signed the Will on understanding its contents and that the executant was having sound disposing capacity. Ext. XI is the thumb impression register containing the details regarding registration of Ext. A1 Will. The thumb impression of the executantof the Will was taken in a slip and it was pasted in the relevant page of the register. Ext. XI thumb impression register was proved by the Sub Registrar of Pazhanji Sub Registry Office at the lime when evidence was adduced in the case. Ext. XI thumb

impression register was shown to PW. 5, the Sub Registrar who registered the original of Ext. A1 and it was on going through Ext. XI that PW. 5 gave evidence in court.

7. S. 213 of the Indian Succession Act, 1925 (hereinafter referred to as 'the Act') says that no right as executor or legatee can be established in any court unless a court of competent jurisdiction has granted probate of the Will under which the right is claimed or has granted letters of administration in respect of the Will. S. 213 of the Act was amended by adding the words 'Indian Christians' after the word 'Mohammedans' with a view to providing that in case of Wills executed by Christians also, the requirement under S. 213(1) of the Act is not necessary. The purpose of the State amendment made to the Act, as stated above, is to avoid the cumbersome procedure of obtaining probate or letters of administration in respect of the Will executed by Christians for the purpose of establishing right under the Will when such right is sought to be asserted in proceedings in court. The prohibition under S. 213 of the Act is regarding establishing any right under the Will without getting probate or letters of administration and that section cannot be understood as one by which the vesting of right as per the provisions of the Will is postponed until the obtaining of probate or letters of administration. The Will will take effect on the death of the executant of the Will and what S. 213 of the Act says is that the right as executor or legatee can be established n any court of justice only if probate or letters of administration is obtained.

8. Amendment to S. 213 of the Act cannot be said to be an amendment which has retrospective operation. Cases in which the bar under S. 213 of the Act is not there, execution of the Will can be proved in proceedings in which the right as executor or legatee is sought to be established. The necessity to obtain probate or letters of administration as provided in S. 213(1) of the Act arises only when right as executor or legatee is sought to be established in a court and hence that section does not prohibit the use of the Will which is unprobated asevidence for purposes other than establishment of right as executor or legatee. So, the requirement of obtaining probate becomes relevant at the time when the establishment of right as executor or legatee on the strength of a Will is sought to be made in a court of justice. Irrespective of the fact whether a suit is filed before

or after the amendment to S. 213 of the Act if execution of the Will sought to be relied on in judicial proceedings is attempted to be proved after the amendment, it cannot be said that in cases covered by S. 213 of Ihe Act in respect of Christians, the Will must be one in respect of which probate has been granted. Obtaining of probate in respect of a Will can also be for purposes other than the purpose for which it is not necessary to get a probate and for that reason also it cannot be said that after the amendment to S. 213 of the Act, there is no need for granting probate or letters of administration.

9. In Syndicate Bank v. Sqji Chacko, 1998 (2) KLT 25. this Court had occasion to consider the effect of amendment to S. 213(1) of the Act. This Court held that from the date of insertion of the words 'Indian Christians' in sub-s. (2) of S. 213 of the Act, need for obtaining of a probate or letters of administration of a Will executed by an Indian Christian need not be insisted upon for the purpose of establishing right as executor or legatee under the Will.

10. In Sheonath Singh v. Madanlal, AIR 1959 Rajasthan 243, it was held that S. 213 of the Act does not vest any right or rather any substantive right in anybody and what it really does is to regulate the mode of proving a Will, that is, procedure. It was further observed in the above decision that what S. 213 really does is that it lays down a rule of procedure, that rule being that a person seeking to establish his right in any court of justice as executor or legatee under a Will must have obtained the probate of the Will under certain circumstances mentioned in the section. The section precludes the establishment of a right as executor or legatee in a court of justice but does not affect the right as such for which the Court must look elsewhere. The High Court of Rajasthan was of the definite view tbat S. 213 of the Act lays down a rule of procedure and for of any substantive right. This Court in a recent decision in Acho Dominic v. Xavier, 2000 AIHC 2218, had occasion to consider the effect of amendment made to S. 213 of the Act. The amendment to the above section was made during the pendency of the appeal and at the time when the suit was pending in the lower appellate court the provision was that for establishing right as mentioned in S. 213 of the Act, Will had to be probated. In the above decision it was held by this Court that the amendment brought about could be taken into account in deciding the Second Appeal. In Hem

Nolini v. Isolyne Samjbashini, AIR 1962 SC 1471, it was held that the words of S. 213 of the Act are not restricted only to those cases where the claim is made by a person directly claiming as a legatee. It was also observed by the Supreme Court that the section does not say that no person can claim as a legatee or as an executor unlesshe obtains probate or letters of administration of the Will under which he claims and what it says is that no right as an executor or legatee can be established in any court of justice unless probate or letters of administration have been obtained of the Will under which the right is claimed.

11. What is said in S. 213 of the Act is a procedure regarding establishment of right as executor or legatee under a Will. What is stated in S. 213 of the Act becomes relevant when such right is sought to be esiablished in any Court of justice and the necessity of getting probate or letters of administration has to be decided with reference to the time when the right as executor or legatee is sought to be established. The law applicable at that time has to be taken into consideration and regarding the procedure tor establishment of right as executor or legatee, there is no relevance to the date of execution of the Will or the daie on which the proceedings in the court of justice commenced. Even if the amendment came into force during ihe pendency of theproceedings, when the right as executor or legatee is sought to be established in that proceedings after the amendment, in the case of Christians it cannot be insisted that probate or letters of administration would have been obtained for establishing that right. Even though S. 213 was amended, the other provisions in the Act regarding granting of probate or letters of administration remain unchanged and hence it cannot be said that after the amendment brought about to S. 213 of the Act, there is no need for granting probate or letters of administration.

12. Coming to the evidence regarding execution of the Will, there is the evidence of PW. 4, the first respondent in this appeal and PW. 2, the taxi driver who was the identifying witness to the Will. PW.4 says that she had seen me executant of the Will putting his signature in the Will. She went on to say that she also saw the attestors putting their signatures in the Will in the presence of Ippuru. There is no reason to disbelieve the version of PW. 4 mat she saw the executant of the Will putting his signature in the document. At the time of execution of the Will, Ippuru

was residing along with his son Vareed and PW. 4, his daughter-in-law. During cross-examination PW. 4 did not say that at the time of registering the Will, another document was also registered. PW. 5. the Sub Registrar who registered the Will says that along with the Will, a sale deed executed by the 7th respondent in favour of Ippuru was also registered. The mere fact that PW. 4 did not say that two documents were registered when the Sub Registrar went to the house of Ippuru for registering the Will will not render the evidence of PW.4 unacceptable. On the other hand what that version of PW. 4 would indicate is that she was not taking active part in the transactions which took place and also getting the documents registered. As a member of the family, she had occasion to know that the Sub Registrar came to the house where she was residing along with her husband and father-in-law for registering the document.

13. The Will was registered on 8.5.1967. The sale deed executed by the 7th respondent in favour of Ippuru in respect of 1/2 right in items 4 to 7 was also registered on the same day. That document was admitted in evidence in thisCourtas Ext. B1 as per the order in C.M.P. No. 5975 of 2000. The fact that the original Will was registered on 8.5.1967 is proved by the evidence of PW. 5. Pw.5 also deposed about registering of Ext. B1 sale deed.

14. S. 31 of the Registration Act, 1908 says that in ordinary cases the registration shall be made only at the office of the officer authorised for registration of the document. There is a proviso to S. 31 which says that the officer authorised to register the document may, on special cause being shown, attend the residence of any person desiring to present a document for registration and accept for registration such document or Will. The argument advanced for and on behalf of the appellant is that there was no special reason established for the officer for going to the house of Ippuru for registering the document. In (his connection, R 50 of the Kerala Registration Ruleswas also pointed out. The above Rule provides that the registering officer shall obtain in his deposition book a statement from the party concerned justifying the urgency whether due to illness or otherwise and a copy of that statement shall be attached to the report of private attendance. PW. 5 said that he did not record any statement of the person who executed the document which had to be registered. It is maintained that the fact that no such

statement was recorded by the registering officer would go to show that there was no proper registration of the Will. What is staled in R.50 regarding taking of statement by the registering officer from the party concerned justifying the urgency or reason for going to the residence of the executant of the document for receiving the document for registration is regarding the procedure to be followed by the registering officer when he goes to the residence for the above purpose. As per the proviso to S. 31 of me Registration Act, the registering officer, on special cause being shown, can attend the residence of any person desiring to present a document for registration.

15. It is for the registering officer to take a decision whether there are sufficient reasons for going to the residence of any person during to present a document for registration. Once the registering officer is satisfied that there is special cause for attending the residence of a person, he is justified in going to the residence for receiving the document for registration. Whether there are sufficient reasons for going to the residence of a person is a matter which has to be left to the subjective satisfaction of the registering officer and a document registered on receiving the same by going to the residence of a person cannot be impeached by saying that there was no sufficient ground for the registering officer to go to the residence of the person for receiving the document for registration. Even if the registering officer was expected to take a statement from the party concerned about the urgency for going to the residence for receiving the document for registration, the fact that no statement was taken cannot be said to be a defect which would affect the registration of the document. So, it is not open to the appellant to say that there was no proper registration of the Will.

16. The original of the Will is not produced in this case. The respondents were having possession of the Will after the death of Ippuru. The case of the respondents is that the appellant got the original Will from the 6th respondent by saying that the same had to be shown to her husband and afterwards she did not return the Will to the 6th respondent. It is pointed out that the case of the respondents is that the 6th respondent gave the original Will to the appellant after she issued a notice demanding partition of the properties and the case of the respondents that the Will was handed over to the appellant after the issuance of

such notice is improbable. The 6th respondent is the daughter of Ippuru born in his first marriage and the appellant is his daughter in the second marriage. Since the 6th respondent and the appellant are close relatives, the mere fact that the appellant demanded partition of the properties will not in any way rule out completely the possibility of the 6th respondent handing over the originalWill to the appellant. It is also probable that when the appellant demanded partition of the properties by issuing a notice, the 6th respondent would have shown the Will to the appellant and then the appellant would have asked for handing over the Will to her for showing it to her husband. So, the case of the respondents that the original Will was handed over to the appellant cannot be rejected for the mere reason that there was a notice sent by the appellant to the respondents demanding partition.

17. Another point urged is that the non-production of the original Will would indicate that Ippuru would have revoked the Will. Non production of the Will is pointed out as a suspicious circumstance which according to the appellant would go to show that in all probability the Will would have been revoked by Ippuru and that may be the reason for not producing the Will. S. 70 of the Act deals with revocation of the Will by burning, tearing or otherwise destroying the same by Ihe testator or by some person in his presence and by his direction with the intention of revoking the same. Destroying the Will by the testator is one of the modes of revocation of the Will if that was done with the intention of revoking the same. Merely because the Will is not forthcoming, presumption cannot be drawn that the testator would have destroyed the Will. Even though revocation of the Will had been made by destroying the same, there must be positive evidence to show that the Will was destroyed by the testator with the intention to revoke the same. There is no evidence at all in this case to show that the Will was destroyed by the testator with.the intention of revoking the same. The possibility of the testator revoking the Will by destroying the same is very remote for the reason that there is a specific provision in Ext. A1 Will that in case the testator wanted to revoke the Will, he could do that by executing a registered document.

18. As adverted to earlier, PW. 2, the driver of the car in which the Sub Registrar went to the house of Ippuru is the identifying witness. According to the counsel for the appellant, the fact that the driver of the car is made the identifying witness is

itself a suspicious circumstance regarding registration of the Will by PW. 5. When considering the genuineness of the Will and proper execution of the same, the Court is concerned with the suspicious circumstance surrounding execution of the Will. Here what is pointed out is a suspicious circumstance which according to the appellant surrounds the registration of the Will. There is nothing wrong in the driver of the car in which the Sub Registrar was taken to the house of the executant of the Will being made the identifying witness.

19. Admittedly, at Ihe lime of execution and registration of the Will, Ippuru was residing along with his son Vareed. In Ext. A1 Will, item Nos. 1 to 3 are given to the 6th respondent and item Nos. 4 to 7 are given to Vareed subject to the life estate of the 7th respondent. Major portion of the property is given to Vareed. There is a provision in Ext. A1 Will that Vareed has to give Rs. 2000/ each to the 8th respondent and the appellant. The fact that Ippuru was residing along with his son Varced at the time ofexecution of the Will cannot be said to be a suspicious circumstance surrounding execution of the Will. There is a case for the appellant that the Will was got executed by exerting coercion and undue influence on Ippuru. But there is no evidence to show that the Will was executed as a result of coercion and undue influence exerted by Vareed. There is also no evidence to show that Vareed was in a position to dominate theWillbfIppuru.

20. An attempt was made to establish that at the time when the Will was executed, Ippuru was suffering from paralysis. The appellant gave evidence in the trial court as DW.I. DW.2 says that he is the son of Sankunny Vaidyar who treated Ippuru. His version is that he used to accompany his father when his lather went to the house of Ippuru for treating him. DW. 2 went on to say that Ippuru was very weak and was unconscious. But in cross-examination, DW. 2 deposed that his father was not a licenced medical practitioner and that he used to treat only persons who suffered paralysis. That shows that even according to DW.2, his father did not treat anybody for any other ailment. The evidence of DW.2 does not appear to be sufficient to indicate that his father was a physician who was treating Ippuru for paralysis. The evidence of PW. 5, the Sub Registrar becomes relevant in this context. PW. 5 cannot be said to be a person who is interested and his version is that at the time when he went to the house of Ippuru for registering the document,

Ippuru was of sound disposing state of mind. What has to be understood from the evidence of PW. 5 is that at the time of registration of the document, Ippuru understood the nature and effect of disposition. In the light of the evidence of PW. 5, it could not be seen that the evidence of DW.2 that his father was treating Ippuru for paralysis cannot at all be accepted.

21. Ext. A1 Will was executed on 8.5.1967 and Ext. B1 sale deed was executed on 2.5.1967. Both the above documents were registered on 8.5.1967. In Ext. A1 Will, it is stated that item Nos. 4 to 7 properties are those over which the testator got right under Ext. B1 sale deed. Even though in Ext. B1 sale deed, the date of execution of that document is given as 2.5.1967, that is a document which was registered after execution and registration of Ext. A1 Will. Since Ext. B1 sale deed was registered after the registration of Ext. A1 Will, the question at what time Ippuru got right under Ext. B1 sale deed becomes relevant. If as a matter of fact, Ippuru got right over item Nos.4 to 7 only at the time of registration of Ext. B1 sale deed, then at the time of execution of Ext. A1 Will, he did not have any right over those properties. In case we find that Ippuru got right over item Nos. 4 to 7 properties only at the time of registration of Ext. B1 document, the necessary conclusion will have to be that under Ext. A1 Will Vareed did not get 1/2 right over item Nos. 4 to 7 which is made mention of in Ext. B1 sale deed.

22. S. 47 of the Registration Act provides that a registered document shall operate from the time from which it would have commenced to operate if no registrationthereof had been required or made, and not from the time of its registration. On the basis of the above provision, it is maintained that even though Ext. B1 sale deed was registered only on 8.5.1967, it shall operate from 2.5.1967, the date on which it was executed. On the strength of the above provision in the Registration Act, the argument advanced was that inspite of the fact that Ext. B1 was registered only on 8.5.1967, the person in whose favour that document was executed got right over item Nos. 4 to 7 at the time of execution of that document. Along with S. 47 of the Registration Act, S. 54 of the Transfer of Property Act, 1882 also has to be taken into consideration for deciding the question as to when a sale deed would take effect because it is in S. 54 of the Transfer of Property Act that special provision is made regarding sale.

23. Transfer of ownership is involved in every sale. In the case of tangible immovable property of the value of Rs. 100/- and upwards, transfer of ownership can be made only by a registered instrument. Even though in S. 47 of the Registration Act, it is said that a registered document shall operate from the time from which it would have commenced to operate if no registration thereof had been required or made, it is in S. 54 of the Transfer of Property Act that provision is made regarding transfer of ownership. Since the provision in S. 54 of the Transfer of Property Act is that transfer of ownership of tangible immovable property of the value of Rs. 100/-and upwards can be effected only by a registered instrument, without a registered document ownership over tangible immovable property cannot be transferred. Where the sale deed requires registration, title does not pass until the sale deed is registered even though the transfer of possession as well as payment of consideration take place before registration of the document. S. 47 of the Registration Act deals with the time when a registered document shall operate and that provision is in respect of all documents which have to be registered as per the provisions of the Registration Act. But, S. 54 of the Transfer of Property Act is a special provision available in the said Act regarding sale of immovable property which says that registration of a sale deed is necessary for effecting transfer of ownership of immovable property, the value of which is Rs. 100/- or upwards. In the light of the above fact, the question whether transfer of ownership in immovable property will take effect from the date of execution of the sale deed which was subsequently registered, has to be decided with reference to what is slated in S. 54 of the Transfer of Property Act. On a reading of S. 54 of the Transfer of Property Act, it is manifest that title of the vendor passes to the vendee only on registration of the sale deed irrespective of the fact that the sale deed was actually executed on an anterior day.

24. Even though by virtue of S. 47 of the Registration Act, a document when registered is permitted to operate from a date anterior to registration, sale of immovable property made by transferring the ownership of immovable property cannot be said to have been completed earlier to the date of registration. S. 47 of the Registration Act does not say anything about the time when the transfer of ownership in immovableproperty takes effect. Sale of.immovable property and transfer of ownership as envisaged in S. 54 of the Transfer of Property Act will be

there only at the time of completion of registration. S. 61 of the Registration Act says that the endorsements and certificate referred to in Ss. 59 and 60 of the Registration Act shall be copied into the true copy of the document presented along with the document and then registration of the document shall be complete.

25. In Ram Saran v. Domini Kuer, AI R 1961 SC 1747, the Supreme Court considered the effect of S. 47 of the Registration Act in ihe case of a sale deed. In the above decision it was held that S. 47 of the Registration Act has nothing to do with the completion of regisiration and, therefore, nothing to do with the completion of a sale when the instrument is one of sale, It was also held that a sale which is not completed until registration of the instrument of sale is completed cannot be said to have been completed earlier because by virtue of S. 47 of the Registration Act, the instrument by which it is effected, after it has been registered, commences to operate from an earlier date. In holding so, the Supreme Court took into account what is said in S. 61 of the Registration Act regarding completion of registration. Registration, as per S. 61 of the Registration Act, will not be complete till the document to be registered has been copied out in the records of the Registration Office.

26. The endorsement made by the registering authority in Ext. A1 Will and Ext. BI sale deed and the evidence of PW. 5 would show that Ext. B sale deed was registered after the execution of the Will and its registration. The case of the respondents is that Ippuru got 1/2 right in item Nos. 4 to 7 under Ext. B1. What is the nature of Ext. B1 document and whether Ippuru got any right under that document are not being considered in this proceedings. But even as per the case of the respondents, Ippuru got 1/2 right in item Nos. 4 to 7 under Ext. B1 sale deed. It could be seen that at the time of execution of Ext. A1 Will, Ippuru was not having any right over those items of properties. He could not have executed Ext. A1 Will by bequeathing item Nos. 4 to 7 in favour of Vareed because at the time of execution of that document, he had no right over those items of properties.

27. The execution of the Will has to be proved by the propounder of the Will. Execution of the Will has to be proved by examination of one of the attesting witnesses. At the time when the execution of the Will was sought to be proved, the

attesting witnesses were not alive and hence, the propounder of the Will could prove the execution of the will by adducing other evidence. It is also necessary that the propounder of the Will has to explain the suspicious circumstance surrounding the execution of the Will. Execution of the Will has been satisfactorily proved. There is no evidence to show that, as considered by the appellant, Ippuru had executed the Will due to coercion and undue influence exerted by the respondents. Ippuru at the time of execution of the Will was having sound disposing capacity. The suspicious circumstances which,according to the appellant according to me execution of the Will, have been satisfactorily explained by the respondents. Since at the time of execution of Ext. A1 Will, Ippuru had no right over item Nos. 4 to 7, the predecessor-in-interest of respondents 1 to 5 did not get any right under the Will. Items 1 to 3 properties are seen to have been given to the 6th respondent and on the death of Ippuru, the 6th respondent got right over those items of properties. Hence, we find that letters of administration can be issued in favour of the 6th respondent who was the 6th plaintiff in the suit.

The decree passed by the trial court is modified directing that letters of administration with copy of Ext. A1 Will annexed will be issued in favour of the 6th respondent (6th plaintiff) on her executing a bond for Rs. 80,000/- with one surety for the like amount. The other directions in the decree of the trial court will have to be complied with by the 6th respondent. The direction in the decree regarding payment of costs is confirmed.

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