

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(TESTAMENTARY AND INTESTATE JURISDICTION)

WEDNESDAY, THE 30TH DAY OF AUGUST 2017

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

O.P.No.133 of 2017

In the matter of the Indian
Succession Act XXXIX of 1925

And

In the matter of debts of
K.Amavasai (deceased)
intestate

1.A.Valli
W/o.Late K.Amavasai

2.Vinayagam,
S/o.Late K.Amavasai

3.Mohan
S/o.Late K.Amavasai

4.Durai,
S/o.Late K.Amavasai

5.Murugan
S/o.Late K.Amavasai

All are residing at
No.7, Kolatchi Amman Koil Street,
kilambakkam,
Urappakkam,
Chengalpet-603 211

...Petitioners

-Vs-

Banu
D/o.Mottaiyan,
No.10. Sabapathy Nagar,
First Street,
Chromepet,
Chennai-600 044.

...Respondent

Original Petition praying that this Hon'ble Court be pleased to that a Succession Certificate may be granted to the power to collect the debts with interest specified in the schedule hereto and to pass such further or others as this Hon'ble Court may deem fit and proper in the circumstances of the case.

This Original Petition coming on this day before this court for hearing the court made the following order:

This Petition has been filed under Section 372 of the Indian Succession Act 1925 read with Order XXV Rule 6 of the Madras High Court Original Side Rules, to grant succession certificate in favour of the petitioners.

2. Heard the learned counsel for the petitioners and perused the materials available on record.

3.It is the case of the petitioners that K.Amavasai died on 03.01.2016 at the Government T.B. Hospital, Tambaram, Chennai.. The deceased was ordinarily residing at No.7, Kolatchi Amman Koil Street, Kilambakkam, Urappakkam, Chengalpet and left the property within the Jurisdiction of this Court and as specified in the schedule to the petition. The deceased died intestate and though due and diligent search has been made for a Will, none has been found.

4. It is the further case of the Petitioners that the said deceased at the time of his death, left the

petitioners, the first petitioner is wife and petitioners 2 to 5 are his sons namely Valli, Vinayagam, Mohan, Durai and Murugan who are surviving as legal heirs of the deceased Amavasai and residing at No.7, Kolatchi Amman Koil Street, Kilambakkam, Urappakkam, Chengalpet-603 211. These petitioners are the wife and sons of the deceased, who claim to be entitled to a share of the estate of the deceased. The respondent is the sister's daughter of the deceased Amavasai. The respondent has given her consent to pass the order of the grant of succession certificate in favour of the petitioners herein and filed the consent affidavit. The succession certificate is required for the purpose of obtaining service benefits of the deceased K.Amavasai from the Chennai Metropolitan Water Supply and Sewerage Board at Chennai 600 002. The amount in respect of which the succession certificate is required, is of the value of Rs.7,47,900/- No application for a succession certificate has been made to any District Court or delegate or to any High Court for probate of any Will of the said deceased or for Letters of Administration with or without the Will annexed to her properties or credits. There is no impediment under Section 370 of the Indian Succession Act, or under any other provisions of the Act or any other enactment to the grant of the Certificate or the validity thereof if it were granted. No application for a succession certificate in respect of any debts or security

belonging to the estate of the deceased has been made to any District Court or any High Court. Hence, the petitioners have approached this Court for grant of succession certificate with power to collect the debts with interest specified in the schedule.

5. The petitioner examined himself as P.W.1 and marked Exs.P1 to P8 viz.,

EX.P1 is the original death certificate of my husband K.Amavasai, who died on 03.01.2016.

EX.P2 is the certified copy of the legal heirship certificate dated 22.03.2016 in respect of the deceased husband K.Amavasai.

EX.P3 is the original letter dated 21.09.2016 addressed to the petitioner by the Chennai Metropolitan Water Supply and Sewerage Board, Chennai-2.

Ex.P4 is the consent affidavit given by the respondent stating that she has no objection in granting succession certificate in favour of the petitioners in respect of the debts and securities of the deceased husband K.Amavasi.

Ex.P5 is a copy of paper publication effected in one issue of Tamil daily "Thina Boomi" dated 22.06.2017.

She has further stated in her evidence that she has not filed any other petition before any other Court seeking the same relief.

6. Considering the averments made in the petition and the documents filed by the petitioners, I am satisfied that the petitioners have succeeded to the Estate of the deceased K.Amavasai. Therefore, the petition is ordered as prayed for and a direction for grant of Succession Certificate to the petitioners with power to collect the debts with interest specified in the schedule as specified in the schedule, is issued. The petitioners are directed to render account once in a year.

sd/-C.V.K.J.

30.08.2017

//Certified to be a true copy//

Dated this the day of 2017.

EM/04.09.2017

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.