

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(ORDINARY TESTAMENTARY CIVIL JURISDICTION)

MONDAY, THE 11TH DAY OF SEPTEMBER 2017
THE HON'BLE DR. JUSTICE C.V.KARTHIKEYAN

O.P. No.372 of 2017

In the matter of Hindu
Succession Act XXXIX of
1925.

And

In the matter of debts of
the M.Elumalai (Late) and
Mrs.Gnanasoundari (Late).

Mrs.D.Thenmozhi,
W/o.Devaprakash,
Pillayar Koil Street,
Morappakkam Vill & Post,
Madurantakam TK,
Kancheepuram-dist,
Pin-603 306.

...petitioner

Original Petition praying that this Hon'ble Court be
pleased to that a succession certificate may be granted to
the petitioner with power to collect the debts and to
receive the interest specified in the schedule hereto.

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 petitioner.

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

3. It is the case of the petitioners that M.Elumalai, died on 14.12.2008 at Sri Ramachandra Hospital, Chennai and ordinarily resided at Pillayar Koil Street, Morappakkam Village and Post, Madurantakam Tk, Kancheepuram District-603 306 and he was possessed of securities within the State of Tamil Nadu. The petitioner is the daughter of the deceased. The wife of the deceased, namely, Gnanasoundary died on 25.06.2015 at CMC Hospital, Chengalpattu. The parents and brother of the deceased have also predeceased him. The deceased died intestate and though due and diligent search has been made for a Will, none has been found.

4. It is the case of the petitioner that the deceased M.Elumalai worked in B.S.N.L Department of Telecommunications and he was an employee of O/o CGM CHTD from 14.06.1977 to till his death. He died on 14.12.2008 before he attaining the regular superannuation. At the time of his death, the petitioner and his mother are the only legal heirs. After his death, his wife ie. the mother of the petitioner was regularly drawing the Eligible family pension amount from the State Bank of India from December 2008 to till November 2010.

5. It is the further case of the petitioner that the mother of the petitioner has also expired on 25.06.2015 due to prolonged illness. After her death, the petitioner came to know that through the records her mother is not drawing the family pension amount from the bank after

November 2010. The petitioner is the only surviving legal heir of the deceased Elumalai and Gnanasoundary and she is entitled to receive the entire arrears of family pension from the month of November 2010 to till her mother's death on 25.06.2015. The necessary death certificate and legal heir ship certificate issued by the concerned authorities are filed. The petitioner has already made a request on 22.09.2015 to release the pending family pension amount from November 2010 till my mother's death on 25.06.2015. But, the authorities are insisting for the Succession Certificate.

6. The succession certificate is required for the purpose of the getting the outstanding amount in the name of the deceased in the Family pension arrears amount. The Value of the outstanding family pension amount pending with the authorities in respect of which the succession certificate is required are the value of Rs.4,00,000/-. No application has been made to any District Court or to any High Court for Probate of any Will of the deceased or for Letters Administration with or without Wills. 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 debt or security belonging to the estate of the deceased has been made to any District Court or any High Court. Hence, the petitioner

has approached this Court for grant of succession certificate in favour of the petitioner with power to collect the debts and to receive the interest specified in the schedule.

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

EX.P1 is the original death certificate of her father M.Elumalai, who died on 14.12.2008.

EX.P2 is the original death certificate of her brother E.Mathivanan, who died on 29.02.2012.

EX.P3 is the original legal heirship certificate dated 19.03.2013 in respect of her father M.Elumalai.

EX.P4 is the original death certificate of her mother dated Gnanasoundary, who died on 25.06.2015.

EX.P5 is the original legal heirship certificate dated 26.08.2015 in respect of her mother Gnanasoundary.

EX.P6 is the photocopy of pension payment order bearing No.210024954 in respect of her mother Gnanasoundary. (Marked after comparing and verifying with the original).

EX.P7 is the original order by Department of Telecommunications, the office of the Principal Controller of Communication Accounts, Tamil Nadu Circle, Chennai-28 dated 01.11.2016 addressed to the petitioner.

EX.P8 is one copy of paper publication effected in one issue of Tamil daily "Malar Sudar" dated 06.07.2017.

She has further stated in her evidence that she has not

filed any other petition before any other Court seeking the same relief.

8. Considering the averments made in the petition and the documents filed by the petitioner, I am satisfied that the petitioner has succeeded to the Estate of the deceased M.Elumalai. Therefore, the petition is ordered as prayed for and a direction for grant of Succession Certificate to the petitioner with power to collect the debts and to receive the interest as specified in the schedule, is issued. The petitioner is directed to render account once in a year.

Sd/-C.V.K.J

11.09.2017

//Certified to be a true copy//
Dated this the day of 2017.

EM/18.09.2017

COURT OFFICER

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