

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(TESTAMENTARY AND INTESTATE JURISDICTION)

MONDAY, THE 24TH DAY OF JULY 2017

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

O.P.No.45 of 2017

In the matter of the Indian
Succession Act, 1925 (Act
XXXIX of 1925)

And

In the matter of certain
securities of Mr.James Michael
Thambuswamy @ J.M.Thambuswamy
(Died Intestate on 30.07.1988)

1.Mr.Vikram James Thambuswamy,
@ V.J.Thambuswamy,
S/o.(Late) Mr.James Michael Thambuswamy,
@ J.M.Thambuswamy,
No.6, Manonmani Ammal Street,
Kilpauk, Chennai-600 010.

2.Mr.Prithvi Gabriel Thambuswamy,
@ P.G.Thambuswamy,
S/o.(Late)Mr.James Michael Thambuswamy,
@ J.M.Thmbuswamy,
3022 East 74th Place, Tulsa,
Oklahoma 74136, USA,
Rep.by his power of Attorney Agent
Mr.Vikram James Thambuswamy
@ V.J.Thambuswamy.

3.Ms.Rebecca Priyadarshini Rajanayakam,
@ R.P.Rajanayakam,
D/o.(Late)Mr.James Michael Thambuswamy,
@J.M.Thambuswamy,

W/o.Mr.D.F.Rajnayakam,
 5421 Magnolia Greens Lane, League City
 Taxes 77573, USA
 Rep. By her power of Attorney Agent
 Mr.Vikram James Thambuswamy
 @ V.J.Thambuswamy

4.Ms.Rachel Kalpana Sathyadev,
 @ R.K.Sathayadev,
 D/o.(Late)Mr.James Michael Thambuswamy,
 @ J.M.Thambuswamy,
 W/o. Allan Sathyadev,
 4126, Mount Acadia Boulevard
 San Diego, California 02111
 USA
 Rep. By her power of Attorney Agent
 Mr.Vikram James Thambuswamy
 @ V.J.Thambuswamy

...Petitioners

Original Petition praying that this Hon'ble Court be pleased to that Succession Certificate may be granted to the Petitioners with power to collect the securities and to receive the interest and dividends on and negotiate and transfer the securities, morefully described in the Schedule hereunder, having effect limited to the state of Tamilnadu and pass such further/other order(s) 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 read with Order XXV Rule 6 of the Madras High Court Original Side Rules, to grant succession

certificate in favour of the petitioners.

2.It is the case of the petitioners that James Michael Thambuswamy @ J.M.Thambuswamy died on 30.07.1988 at Apollo Hospitals, No.21, Greams Lane, Kilpauk, Chennai - 600 006. The deceased was ordinarily residing at No.6, Manonmani Ammal Street, Kilpauk, Chennai - 600 010 and he left the properties described in the schedule. The deceased leaving behind his wife, namely, Mrs.Elizabeth Sunalini Thambuswamy @ E.S.Thambuswamy and his four children, namely 1) Mr.Vikram James Thambusamy @ V.J.Thambusamy 2) Mr.Prithvi Gabriel Thambusamy @ P.G.Thambusamy 3) Ms.Rebecca Priyadarshini Rajanayakam @ R.P.Rajanayakam and 4) Ms.Rachel Kalapana Sathyadev @ R.K.Sathyadev. The wife of the deceased, Mrs.Elizabeth Sunalini Thambuswamy @ E.S.Thambuswamy, died on 10.03.2002. The petitioners are the only Class-I legal heirs of the deceased James Michael Thambuswamy @ J.M.Thambuswamy and they are entitled to claim a share to the estate of the deceased. The deceased died intestate and though due and diligent search has been made for a Will, none has been found. Petitioners 1 and 2 are the sons of the deceased. Petitioners 3 and 4 are the daughters of the deceased. The succession certificate is required for the purpose of realization of the securities and for applying to the respective companies for payment of dividend/interest etc. in respect of the securities morefully described in the schedule standing in the name of

the deceased. The deceased was possessed of investments within the state of Tamil Nadu and within the jurisdiction of this Court. The said assets in respect of which the succession certificate is required, are of the value of Rs.1,18,215/-. The petitioners state that apart from them, there is no other next kin or other persons interested to be impleaded as party / respondent. No application for grant of succession certificate in respect of any debt belonging to the estate of the said deceased has been made to any District Court or delegate or to any other High Court. 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. Hence, the petitioners have approached this Court for grant of succession certificate in favour of petitioners with power to collect the securities and to receive the interest and dividends thereon and negotiate and transfer the securities

3.The first petitioner examined himself as P.W.1 and marked Exs.P1 to P12 viz.,

Ex.P1 is the computer generated death certificate of Mr.James Michael Thambusamy, who died on 13.07.1988.

Ex.P2 is the photocopy of legal heirship certificate dated 26.09.1988 in respect of Mr.James Michael Thambusamy.

Ex.P3 is the computer generated death certificate of Mrs.Elizabeth Sunalini Thambusamy, who died on 10.03.2002.

Ex.P4 is the photocopy of legal heirship certificate of Mrs.Elizabeth Sunalini Thambusamy dated 09.04.2002.

Ex.P5 is the photocopy of the Share Certificate No.106413 issued by Mahindra CIE Automotive Limited in respect of Mr.James Michael Thambusamy.

Ex.P6 is the photocopy of Power of Attorney given by 4th petitioner in favour of 1st petitioner Doc.No.124 of 2002, SRO, Purasaiwakkam dated 22.03.2002.

Ex.P7 is the photocopy of Power of Attorney given by 3rd petitioner in favour of 1st petitioner Doc.No.125 of 2002, SRO, Purasaiwakkam dated 22.03.2002.

Ex.P8 is the photocopy of Power of Attorney given by 2nd petitioner in favour of 1st petitioner dated 09.05.2002.

Ex.P9 is the photocopy of affidavit of 2nd petitioner dated 06.04.2016.

Ex.P10 is the photocopy of affidavit of 4th petitioner dated 09.04.2016.

Ex.P11 is the photocopy of affidavit of 3rd petitioner dated 12.04.2016.

Ex.P12 is one copy of paper publication effected in one issue of Tamil daily "Makkal Kural" dated 18.02.2017.

He has further stated in his evidence that he has not filed any other petition before any other Court seeking the same relief.

4. Considering the averments made in the petition and the documents filed by the petitioners, I am satisfied that the petitioners have succeeded the Estate of the deceased James Michael Thambuswamy @ J.M.Thambuswamy. Therefore, the petition is ordered as prayed for and a direction for grant of Succession Certificate to the petitioners with power to collect the securities and to receive the interest and dividends thereon and negotiate and transfer the securities as specified in the schedule, is issued. The petitioners are directed to render account once in a year.

sd/-C.V.K.J.

24.07.2017

//Certified to be a true copy//

Dated this the day of 2017.

EM/28.07.2017

COURT OFFICER

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