

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.46 of 2017

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

And

In the matter of certain
securities of Mrs.Elixabeth
Sunalini Thambuswamy @
E.S.Thambuswamy (Died
Intestate on 10.03.2002)

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 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 Elizabeth Sunalini Thambuswamy @ E.S.Thambuswamy died on 10.03.2002 at Ayesha Hospitals, No.91-A, Millers Road, Kilpauk, Chennai - 600 010. The deceased was ordinarily residing at No.6, Manonmani Ammal Street, Kilpauk, Chennai - 600 010 and she left the properties described in the schedule. The husband of the deceased, Mr.James Michael Thambuswamy @ J.M.Thambuswamy, pre-deceased her on 30.07.1988. 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 deceased leaving behind her 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 petitioners are the only Class-I legal heirs of the deceased Elizabeth Sunalini Thambuswamy @ E.S.Thambuswamy and they are entitled to claim a share to the estate 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.43,95,904/-. 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 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 P51 viz.,

Ex.P1 is the photocopy of Share Certificate No.287098 - Folio No.E00176 issued by M/s.India Cements Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P2 is the photocopy of Share Certificate No.287099 - Folio No.E00176 issued by M/s.India Cements Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P3 is the photocopy of Share Certificate No.287100 - Folio No.E00176 issued by M/s.India Cements Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P4 is the photocopy of Share Certificate No.287101 - Folio No.E00176 issued by M/s.India Cements Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P5 is the photocopy of Share Certificate No.287102 - Folio No.E00176 issued by M/s.India Cements Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P6 is the photocopy of Share Certificate No.287103 - Folio No.E00176 issued by M/s.India Cements Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P7 is the photocopy of Share Certificate No.287104 - Folio No.E00176 issued by M/s.India Cements Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P8 is the photocopy of Share Certificate No.359944 - Folio No.T00682 issued by M/s.India Cements Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P9 is the photocopy of Share Certificate No.359945 - Folio No.T00682 issued by M/s.India Cements Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P10 is the photocopy of Share Certificate No.359946 - Folio No.T00682 issued by M/s.India Cements Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P11 is the photocopy of Share Certificate No.359947 - Folio No.T00682 issued by M/s.India Cements Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P12 is the photocopy of Share Certificate No.359948 - Folio No.T00682 issued by M/s.India Cements Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P13 is the photocopy of Share Certificate No.3200 - Folio No.T00030 issued by M/s.Oriental Hotels Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P14 is the photocopy of Share Certificate No.6135 - Folio No.E000048 issued by M/s.EID Parry (India) Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P15 is the photocopy of Share Certificate No.215384 - Folio No.CFL107704 issued by M/s.Coromandel Fertilisers Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P16 is the photocopy of Share Certificate No.14470 dated 23.07.2012 - Folio No.CFD0014470-214470 issued by M/s.Coromandel International Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P17 is the photocopy of Share Certificate No.4958 - Folio No.E0000020 issued by M/s.HFCL Infotel Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P18 is the photocopy of Share Certificate No.00052783 - Folio No.052783 issued by M/s.Essar Shipping Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P19 is the photocopy of Share Certificate No.6111 - Transfer No.TMN734 dated 31.01.1996 issued by M/s.Kunal Engineering Company Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P20 is the photocopy of Share Certificate No.13735 - Transfer No.TMN734 dated 31.01.1996 issued by M/s.Kunal Engineering Company Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P21 is the photocopy of Share Certificate No.20932 -

Folio No.KET/0055 Transfer No.TMN 734 dated 31.01.1996 issued by M/s.Kunal Engineering Company Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P22 is the photocopy of Share Certificate No.75582 - Regd. Folio No.T00055 Transfer No.TMN 734 dated 31.01.1996 issued by M/s.Kunal Engineering Company Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P23 is the photocopy of Share Certificate No.75583 - Regd. Folio No.T00055 Transfer No.TMN 734 dated 31.01.1996 issued by M/s.Kunal Engineering Company Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P24 is the photocopy of Share Certificate No.75584 - Regd. Folio No.T00055 Transfer No.TMN 734 dated 31.01.1996 issued by M/s.Kunal Engineering Company Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P25 is the photocopy of Share Certificate No.75585 - Regd. Folio No.T00055 Transfer No.TMN 734 dated 31.01.1996 issued by M/s.Kunal Engineering Company Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P26 is the photocopy of Share Certificate No.75586 - Regd. Folio No.T00055 Transfer No.TMN 734 dated 31.01.1996 issued by M/s.Kunal Engineering Company Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P27 is the photocopy of Share Certificate No.75587 - Regd. Folio No.T00055 Transfer No.TMN 734 dated 31.01.1996 issued by M/s.Kunal Engineering Company Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P28 is the photocopy of Share Certificate No.4621 - Regd. Folio No.1379 Transfer No.194 Register Folio 19800

dated 26.04.1984 issued by M/s.Bangalore Leasing Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P29 is the photocopy of Share Certificate No.4622 - Regd. Folio No.1379 Transfer No.194 Register Folio 19800 dated 26.04.1984 issued by M/s.Bangalore Leasing Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P30 is the photocopy of Share Certificate No.4623 - Regd. Folio No.1379 Transfer No.194 Register Folio 19800 dated 26.04.1984 issued by M/s.Bangalore Leasing Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P31 is the photocopy of Share Certificate No.4624 - Regd. Folio No.1380 Transfer No.193 Register Folio 19800 dated 26.04.1984 issued by M/s.Bangalore Leasing Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P32 is the photocopy of Share Certificate No.109108 - Regd. Folio No.643562 issued by M/s.Kothari (Madras) Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P33 is the photocopy of Share Certificate No.109109 - Regd. Folio No.643562 issued by M/s.Kothari (Madras) Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P34 is the photocopy of Share Certificate No.109110 - Regd. Folio No.643563 - Transfer No.TMS1200 Register Folio No.656141 dated 14.06.1990 issued by M/s.Kothari (Madras) Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P35 is the photocopy of Share Certificate No.109111 - Regd. Folio No.643563 - Transfer No.TMS1200 Register Folio No.656141 dated 14.06.1990 issued by M/s.Kothari (Madras) Limited in respect of Mrs.Elizabeth Sunalini

Thambusamy.

Ex.P36 is the photocopy of Share Certificate No.122890 - Regd. Folio No.T/142718 issued by M/s.Kothari Industrial Corporation Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P37 is the photocopy of Share Certificate No.0268 dated 28.08.1980 Transfer No.T.M.No.175 dated 05.12.1989 issued by M/s.The Investment Trust of India Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P38 is the photocopy of Share Certificate No.1658 Transfer No.T.M.No.175 dated 05.12.1989 issued by M/s.The Investment Trust of India Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P39 is the photocopy of Share Certificate No.00053422 Regd. Folio No.T701995 issued by M/s.Essar Ports Limited in respect of Mrs.Elizabeth Sunalini Thambusamy.

Ex.P40 is the Computer generated death certificate of Mr.J.M. Thambusamy, who died on 13.07.1988.

Ex.P41 is the photocopy of Legal Heirship Certificate in respect of Mr.J.M. Thambusamy dated 26.09.1988.

Ex.P42 is the Computer generated death certificate of Mrs.E.S.Thambusamy, who died on 10.03.2002.

Ex.P43 is the photocopy of Legal Heirship Certificate in respect of Mrs.E.S.Thambusamy dated 09.04.2002.

Ex.P44 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.P45 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.P46 is the photocopy of Power of Attorney given by 2nd petitioner in favour of 1st petitioner dated 09.05.2002.

Ex.P47 is the photocopy of affidavit of the 2nd petitioner dated 06.04.2016.

Ex.P48 is the photocopy of affidavit of the 4th petitioner dated 09.04.2016.

Ex.P49 is the photocopy of affidavit of the 3rd petitioner dated 12.04.2016.

Ex.P50 is the photocopy of letter dated 06.06.2016 issued by M/s.Coromandel International Limited.

Ex.P51 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 Mrs.Elizabeth Sunalini Thambuswamy and Mr.James Michael Thambuswamy. Therefore, the petition is ordered as prayed

for and a direction for grant of Succession Certificate to the petitioners with power to receive 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.