

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(TESTAMENTARY INTESTATE JURISDICTION)

WEDNESDAY, THE 2TH DAY OF AUGUST 2017

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

O.P.No.98 of 2017

In the matter of the Indian
Succession Act XXXIX of 1925

And

In the matter of debts of
K.Shivaji Rao Intestate-died.

Mrs.E.Gajalakshmi,
W/o.R.Eswar Rao,
D/o.Late T.N.Krishna Rao,
No.73, Second Main Road,
Gokulam Nagar,
Moovarasampettai,
Chennai-600 091.

...Petitioner

-Vs-

Mr.K.Rajendra Rao,
S/o.Late T.N.Krishna Rao,
No.1/1, Indira Nagar,
3rd Cross Street,
Illaiyangudi Salai,
Sivagangai District.

...Respondent

Original Petition praying that this Hon'ble Court be pleased to that a Succession Certificate may be granted in favour of the petitioner viz., Mrs.E.GAJALAKSHMI 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 read with Order XXV Rule 6 of the Madras High Court Original Side Rules, to grant succession

certificate in favour of the petitioner.

2. It is the case of the petitioner that K.Shivaji Rao, S/o.late T.N.Krishna Rao died intestate on 09.09.2015 as a Bachelor. The said deceased ordinarily resided at No.8/30, Avaiyar Street, Pazhavanthangal, Chennai - 600 114 and left the property within the jurisdiction of this Court. The deceased died intestate and though due and diligent search has been made for a Will, none has been found. The deceased K.Shivaji Rao left his brother, namely, Rajendra Rao, who is the respondent herein and sister, namely, Gajalakshmi, who is the sister as his legal heir. They are only Class-II legal heirs and next-of-kin of the deceased. The deceased father T.N.Krishna Rao and younger brother Diwakar Rao died as bachelor. The mother of the deceased also predeceased him.

3. The further case of the petitioner is that the deceased K.Shivaji Rao during his life time deposited a sum of Rs.25,000/- (Rupees Twenty five thousand only) under the term deposit account No.6000065533 vide receipt No.0000525 dated 14.12.2011 and having a savings Bank Account No.401706555 with a balance of Rs.78,402/- (Rupees Seventy eight thousand four hundred and two only) both with the Indian Bank, Kodambakkam Branch, Chennai - 600 024 and having a Savings Bank account No.003801000027148 with a balance of Rs.1,62,765.75 (Rupees One lakh Sixty Two

thousand Seven hundred and Sixty Five and paise Seventy Five only) with the Indian Overseas Bank, Kodambakkam Branch, Chennai - 600 024 and also having a Life Insurance Policy No.717606933 for a sum of Rs.55,000/- (Rupees Fifty Five thousand only) with the Life Insurance Corporation of India, City Branch XVII.

4. The deceased K.Shivaji Rao died on 09.09.2015 as a Bachelor had no first class legal heirs. The petitioner and the respondent are the Class-II legal heirs of the deceased K.Shivaji Rao and they are entitled to claim a share to the estate of the deceased. The petitioner has also obtained the consent affidavit of the respondent. Further the petitioner moved an application dated 29.12.2015 before the Tahsildar, Alandur Taluk for grant of Legal heirship Certificate in respect of K.Shivaji Rao died on 09.09.2015, but they refused to grant legal heirship certificate of the deceased K.Shivaji Rao and directed the petitioner to approach the proper civil forum for her remedy by Memorandum in O.Mu.No.7579/2015/A6 dated 06.04.2016. Hence the petitioner had no other option except to file this petition before this Court for grant of Succession Certificate.

5. The succession certificate is required for the purpose of transferring (i) the term deposit of Rs.25,000/- with the Indian Bank (ii) Savings bank amount of

Rs.78,402/- with the Indian Bank (iii) Savings Bank amount of Rs.1,62,765.75 with the Indian Overseas Bank and (iv) a sum of Rs.55,000/- with the Life Insurance Corporation of India, City Branch XVII stands in the name of the deceased to the petitioner's herein. The said assets in respect of which the succession certificate is required, are of the value of Rs.3,21,167/-. No application for grant of succession certificate in respect of any debt or security belonging to the estate of the said deceased has been made to any District Court or delegate or to any other High Court. No application filed before any Court for probate or Letter of Administration with or without Will annexed thereto. 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 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 morefully described in the Schedule.

6.The petitioner examined herself as P.W.1 and marked Exs.P1 to P13 viz.,

Ex.P1 is the computer generated death certificate of petitioner's brother K.Shivaji Rao, who died on 09.09.2015.

Ex.P2 is the computer generated death certificate of petitioner's father T.N.Krishna Rao, who died on 16.08.2002.

Ex.P3 is the computer generated death certificate of petitioner's another brother Diwaker Rao, who died on 05.01.2009.

Ex.P4 is the photocopy of death certificate petitioner's mother K.Hamsa Bai, who died on 14.02.2011.

Ex.P5 is the photocopy of Family Card for the period 2005 to 2009 which shows my name.

Ex.P6 is the photocopy of petitioner's Aadhar Card.

Ex.P7 is the photocopy of fixed deposit receipt bearing Account No.6000065533 in Indian Bank, Kodambakkam Branch, which stands in the name of petitioner's brother K.Shivaji Rao.

Ex.P8 is the photocopy of savings pass book in Indian Bank, Kodambakkam branch, bearing Account No.401706555 which stands in the name of petitioner's brother K.Shivaji Rao.

Ex.P9 is the photocopy of savings pass book in Indian Overseas Bank, Kodambakkam branch, bearing Account No.003801000027148 which stands in the name of petitioner's brother K.Shivaji Rao.

Ex.P10 is the photocopy of Life Insurance Policy bearing No.717606933 which stands in the name of petitioner's brother K.Shivaji Rao.

Ex.P11 is the photocopy of memorandum issued by Tahsildar, Alandur dated 06.04.2016 addressed to the petitioner to obtain a succession certificate from competent Court of Law.

Ex.P12 is the consent affidavit filed by respondent herein stating that he has no objection in grant of succession certificate in favour of the petitioner.

Ex.P13 is one copy of paper publication effected in one issue of Tamil daily "Malai Sudar" dated 27.04.2017.

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

7. Considering the averments made in the petition and the documents filed by the petitioner, I am satisfied that the petitioner have succeeded the Estate of the deceased K.Shivaji Rao. 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 and dividends thereon and negotiate and transfer the securities, as specified in the schedule, is issued. The petitioner is directed to render account once in a year.

Sd/-C.V.K.J.
02.08.2017

//Certified to be a true copy//

Dated this the day of 2017.

EM/09.08.2017

COURT OFFICER

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