

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

MONDAY, THE 09TH DAY OF NOVEMBER 2020

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

O.P.No. 1041 of 2018

In the matter of Indian Succession Act
XXXIX of 1925 and
In the matter of Securities of the
Mr.M.S.Gajapati - Deceased Intestate

NAVNITA DEV
Daughter of Late Swarnalatha,
No.7, Manickeswari Road,
Kilpauk, Chennai-600010.

..Petitioner

-Vs-

**** KALYANI GAJAPATHI,**
D/o.Sri Gopinath,
Gajapathi Palace,
Parlakhemundi,
Orissa - 761 200.

**(Amended as per order dated
11/9/2020 in A.No.1602 of 2020)**

..Respondent

This Original Petition praying that this Hon'ble Court be pleased that
a Succession Certificate may be granted to the petitioner with power to
collect the debts, to receive the interest and dividends on and negotiate and

transfer the securities specified in the schedule 1 and 2 hereto belonging to the estate of Mrs.Swarnalatha Gajapathi.

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. Heard the learned counsel for the petitioner.

3. It is the case of the petitioner that the deceased M.S.Gajapati passed away on 1/12/1995, leaving behind his son Mr.G.P.Gajapati and his wife Swarnalatha Gajapathi. Mr.B.P.Gajapati, passed away on 24/4/2001 and his wife Swarnalatha Gajapathi, adopted the petitioner herein as her daughter to succeed to her estate, vide, a Deed of Adoption, dated 10/12/2003, registered as Document No.1031 of 2013, on the file of the Sub-Registrar, Purasawakkam. Swarnalatha Gajapathi passed away on 6/10/2004, leaving the petitioner to succeed to her estate. Deed has also been placed before this Court in O.A.No.79 of 2015, A.Nos.417 to 419 and

1965 of 2005, and the same was disposed of, vide, common order, dated 15/11/2005.

4. Swarnalatha Gajapathi died intestate and despite due and diligent search for a Will, none has been found. Petitioner, as the adopted daughter of the deceased is entitled to the share of the Estate. Thereafter, the transfer agents, in whose hands the share certificates are presently available, C B Management Services Limited, Kolkata had also sought for a copy of a succession certificate to effect transfer of shares in the name of the petitioner. The petitioner does not have a copy of the share certificates in the name of Mr.Gajapathi. The petitioner further states that Succession Certificate is required for the purpose of transmission of shares standing in the name of late M.S.Gajapati to the name of the petitioner. The said assets in respect of which the Succession Certificate is required are valued at Rs.27,90,093/-. Succession Certificate is now required for the purpose of transmission of shares standing in the name of late M.S.Gajapati to the name of the petitioner. Hence, the petitioner has approached this Court for grant of succession certificate in favour of the petitioner with power to collect the debts as specified in the schedule.

5. On the side of the petitioner, petitioner herself was examined as P.W.1 and marked Exs.P.1 to Ex.P.6.

6. Exs.P.1 and P.2 are the photocopies of the death certificates of M.S.Gajapathi, B.P.Gajapathi, who died on 1/12/1995 and 24/4/2001, respectively. Ex.P.3 is the photocopy of the registered Deed of Adoption dated 10/12/2003. Ex.P.4 is the photocopy of Settlement Deed dated 31/12/2003. Ex.P.5 is the photocopy of the death certificate of Swarnalatha Gajapathy, who died on 6/10/2004. Ex.P.6 is the photocopy of the common judgment dated 15/11/2005 in O.A.No.79 of 2005 in A.Nos.417 to 419 and 1965 of 2005. Ex.P.7 is the photocopy of the letter dated 28/2/2003 received from transfer agent. Ex.P.8 is a copy of paper publication effected in one issue of Tamil daily “Makkal Kural” dated 17/12/2019. The documents are compared with original while filing.

7. P.W.1 in her evidence had narrated the averments made in the petition stating that the petitioner had filed this petition for grant of Succession Certificate in favour of the petitioner. Exs.P.1 and P.2 have been filed to prove the death of M.S.Gajapathi and B.P.Gajapathi. Ex.P.3 has been filed to prove that she is the adopted daughter of M.S.Gajapathi. Ex.P.8 is a copy of paper publication effected in one issue of Tamil daily

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

Sd/.N.S.K.J.
09.11.2020

//Certified to be a true copy//
Dated this the day of 2020.

SU/23.11.2020 COURT OFFICER(O.S.)
From 25.09.2008 the Registry is issuing certified copies of the
Order/Judgment Decree in this format.

सत्यमेव जयते

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