IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 01.09.2021

Coram:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

Original Petition No.306 of 2021

1. Mr.Suresh Kumar.B.,
   S/o Mr.S.Babulal

2. Mrs.Vimala Babulal,
   W/o Mr.S.Babulal

3. Mr.Ranjith Kumar Babulal,
   S/o Mr.S.Babulal

4. Mr.Dinesh Kumar Babulal,
   S/o Mr.S.Babulal

5. Mrs.Premlatha K.Jain,
   W/o Mr.Kalpesh M.Jain .. Petitioners

Original Petition (O.P) filed under Section 372 of the Indian Succession Act, 1925, read with Order XXV Rule 6 of the Original Side Rules of this Court, praying that Succession Certificate may be granted to the first petitioner with power to collect the securities and to receive unclaimed Dividends thereon and negotiate and transfer the securities specified in the Schedule hereto.

Schedule Property

Registered Folio No.19/01907 in the name of deceased Mr.S.Babulal in ITC Limited (mentioned as Sha Babulal S.Jain in Share Certificates)			
Description			
Distinctive Nos.	Name, Title or Class of Security	Amount or Value of Per Security	Market Value of Security on date of Application for Certificate
79503141 to 79509400	Equity Share of ITC Limited (Bearing Share Certificate No.47530 and Nos. of Shares are 6260)	Rs.1/-	Rs.10,32,900/- (Present Market Value is Rs.165/- for each share)
2543182571 to 2543185700	Equity Share of ITC Limited (Bearing Share Certificate No.113748 and No.of Shares are 3130)	Rs.1/-	Rs.5,16,450/- (Present Market Value is Rs.165/- for each share)
3904521003 to 3904530392	Equity Share of ITC Limited (Bearing Share Certificate No.185491 and No.of Shares are 9390)	Rs.1/-	Rs.15,49,350/- (Present Market Value is rs.165/- for each share)
8101843211 to 8101852600	Equity Share of ITC Limited (Bearing Share Certificate No.256721 and Nos. of Shares are 9390)	Rs.1/-	Rs.15,49,350/- (Present Market Value is Rs.165/- for each share)
Total accumulated Dividend for the period from 31.03.2007 to 31.03.2013, transferred to IEPF account			Rs.4,57,293/-
Total accumulated Dividend for the period from 01.04.2013 to 31.03.2020, which is held in Company			Rs.9,22,005/-
Total			Rs.60,27,348/-

The market value of the Schedule property is Rs.60,27,348/-.

For Petitioners : Ms.C.Rekha Kumari

O R D E R

This Original Petition is filed to grant Succession Certificate to the 1st petitioner, with power to collect the Securities and to receive unclaimed Dividends thereon and negotiate and transfer the securities specified in the Schedule.

2. The petitioners have averred as follows in the petition:

(a) The petitioners are the Class-1 legal heirs of the deceased Mr.S.Babulal claimed to be entitled to equal share in the Shares and Dividends held in ITC Limited, Registered Office at "Virginia House", at No.37, J.L.Nehru Road, Kolkata-700 071, which are in the name of the deceased Mr.S.Babulal (mentioned as Sha Babulal S.Jain in Share Certificates). The distinctive number of shares mentioned herein below are being transferred to the IEPF (Investors Education and Protection Fund) Account, operated and maintained in the Company. There are also some bonus Shares issued by the company with the Distinctive No's.3904521003 to 3904530392 (transferred to IEPF Account) and 8101843211 to 8101852600 (Held in Company) and it has been admitted by the company in their email dated 12.09.2020 and letter correspondence dated 28.10.2020 and 19.11.2020.

Registered Folio No.	Certificate No.	No. of Shares	Distinctive No's.	Status of Share Certificates
19/01907	47530	6260	79503141- 79509400	Transferred to IEPF Account
	113748	3130	2543182571-2543185700	Transferred to IEPF Account
	185491	9390	3904521003-3904530392	Transferred to IEPF Account
	256721	9390	8101843211-8101852600	Held in Company

Registered Folio No.19/01907 in the name of deceased Mr.S.Babulal, in which the Unclaimed Dividend from the above Shares is being transfer to IEPF (Investors education and protection Found) Account and balance held in the Company			
Sl.No.	Dividend issued on	Status of Dividend	Amount
1.	31.03.2007	Transferred to IEPF Account	Rs.29,109/-
2.	31.03.2008	Transferred to IEPF Account	Rs.32,865/-
3.	31.03.2009	Transferred to IEPF Account	Rs.34,743/-
4.	31.03.2010	Transferred to IEPF Account	Rs.93,900/-
5.	31.03.2011	Transferred to IEPF Account	Rs.83,571/-
6.	31.03.2012	Transferred to IEPF Account	Rs.84,510/-
7.	31.03.2013	Transferred to IEPF Account	Rs.98,595/-
8.	31.03.2014	Held in Company	Rs.1,12,680/-
9.	31.03.2015	Held in Company	Rs.1,17,375/-
10.	31.03.2016	Held in Company	Rs.1,59,630/-
11.	31.03.2017	Held in Company	Rs.1,33,808/-
12.	31.03.2018	Held in Company	Rs.96,717/-
13.	31.03.2019	Held in Company	Rs.53,993/-
14.	31.03.2020	Held in Company	Rs.2,47,802/-

Registered Folio No.19/01907 in the name of deceased Mr.S.Babulal, in which the Unclaimed Dividend from the above Shares is being transfer to IEPF (Investors education and protection Found) Account and balance held in the Company	
Total accumulated unclaimed divided	Rs.13,79,298/-

(b) The 1st petitioner has got consent affidavit from all other legal heirs of the deceased i.e., Petitioner Nos. 2,3,4,& 5 and the same is also filed.

(c) There is no impediment under Section 370 of the Indian Succession Act, 1925 or under any other provisions of this Act or any other enactment to grant of Succession Certificate or the validity, thereof, if ti were granted.

(d) The petitioners have truly set forth in Schedule hereto, the securities in respect of which the Succession Certificate is applied for. The Succession Certificate is required for the purpose of transmission of Shares and Dividends as mentioned above and held in the name of the deceased Mr.S.Babulal (mentioned as Sha Babulal S.Jain in Share Certificates) of ITC limited in favour of the 1st petitioner herein and the said assets in respect of which the Succession Certificate is required for the value of Rs.60,27,348/-.

(e) As per the provisions, the Succession petition is to be filed within three years from the date of death of the deceased, but, whereas in the present case, the petitioners are filing this petitioner with a delay of about 5 years. The petitioners herein were not aware of the above said Share Certificates and the deceased also never informed the same to the petitioners and while searching for some other old documents of the deceased, they came to know about the said Shares Certificates in the year 2015 and thereafter the petitioners were in follow-up with ITC Limited since 2015 with respect to the transmission of shares held in the name of the deceased Mr.S.Babulal and were also complying with the necessary formalities as directed by the Company. The petitioners were complying with such directions for transmission of shares. It was informed by the Company that the Succession Certificate is must for transmission of Shares and unfortunately, from 21.03.2020 onwards there was a total lock-down due to Covid-19 pandemic and the petitioners were not able to consult lawyer to take appropriate legal remedy. Therefore steps could not be taken for filing of the present petition and now immediate steps are taken by the petitioners before this Court to acquire the Succession certificate. Therefore, the petitioners prays that this Court may be pleased to condone the delay of 5 years in filing of this petition and permit the petitioners to proceed auxiliary.

(f) No application has been made to any District Court or delegates or to any high Court for Probate of any Will of the said deceased or for Letters of Administration with or without the Will annexed to his properties and credits.

(g) No application for Succession certificate in respect of any security belonging to the estate of the said deceased has been made to any District Court or Delegates or to any High Court.

(h) The petitioners 2 to 5 have no objection for the grant of Succession Certificate in favour of the first petitioner to collect the Securities and to receive unclaimed Dividends thereon and negotiate and transfer the securities specified in the Schedule hereto.

(i) The petitioners did not intend to serve notice of the petition on any person.

Hence, by stating the above facts, the petitioners have filed the present O.P. for the relief stated supra.

3. The first petitioner examined himself as P.W.1 and marked Exs.P-1 to P-13. Ex.P-1 is the photocopy of the death certificate fo Mr.S.Babulal, who died on 25.07.2006. Ex.P2 is the photocopy of the letter dated 05.05.2015 addressed to the 2nd petitioner by the Company. Ex.P3 is the original reply dated 20.05.2015 to the letter dated 05.05.2015 given by the Company to the 2nd Petitioner. Ex.P4 is the computer generated Legal Heirship certificate dated 14.02.2020 in respect of Mr.Babulal. Ex.P5 is the e-mail dated 12.09.2020 sent by the Company regarding share certificates. Ex.P6 is the original letter dated 28.10.2020 issued by the Company to the 2nd petitioner regarding transmission of shares. Ex.P7 is the original letter dated 19.11.2020 issued by the Company to the 2nd petitioner regarding transmission of shares. Ex.P8 (series 10 Nos.) are the photocopies of the Aadhaar and PAN cards of the petitioners. Ex.P9 is a copy of paper publication effected in one issue of Tamil daily "Dina Kural" dated 07.07.2021. Ex.P10 is the consent affidavit given by the 2nd petitioner. Ex.P11 is the consent affidavit given by the 3rd petitioner. Ex.P12 is the consent affidavit given by the 4th petitioner. Ex.P13 is the consent affidavit given by the 5th petitioner.

4. Heard the learned counsel appearing for the petitioners.

5. Considering the averments made in the petition and the documents filed by the petitioners, this Court is satisfied that the petitioners have succeeded the Estate of the deceased. Therefore, the petition is ordered as prayed for and a direction is issued to the Registry, for grant of Succession Certificate to the first petitioner with power to collect the Securities and to receive unclaimed Dividends thereon and negotiate and transfer the securities specified in the schedule hereto. The first petitioner is directed to render accounts once a year.

01.09.2021

Speaking Order: Yes
vsi

V.PARTHIBAN, J

vsi

O.P.No.306 of 2021

01.09.2021