

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.08.2021

Coram:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

Original Petition No.622 of 2020

Mr.Syed Mazheruddin,
S/o Late Syed Moinuddin Sahib

.. Petitioner

Vs.

1. Mrs.Zaheer Naz Moin,
W/o Late Janab Syed Moinuddin Sahib

2. Mr.Syed Mansooruddin,
S/o Late Syed Moinuddin Sahib

3. Mrs.Tahseen Fathima,
D/o late Syed Moinuddin Sahib

.. Respondents

Original Petition (O.P) filed under Sections 371 and 372 of the Indian Succession Act, 39 of 1925, read with Order 25 Rule 4 of the Original Side Rules of this Court, praying that Succession Certificate may be granted to the petitioner with power to transfer the licence in respect of the Proprietorship Concern M/s.Trans Continental Traders, in his favour and carry on business under the name and style of M/s.Trans Continental Traders, which is specified in the schedule hereto.

Schedule

Securities

<i>Description</i>				
Sl. No.	Distinguishing number or letter of security	Name, title or class of security	Amount or par value of security	Market-value of security on date of application for certificate
1	Right of business in M/s.Trans Continental Traders	Right of business in M/s.Trans Continental Traders	Rs.2,00,000/-	Rs.2,00,000/-

For petitioner : Mr.D.Abdullah

For respondents: Mr.M.Sethuraman

ORDER

This Original Petition is filed to grant Succession Certificate in favour of the petitioner with power to transfer the licence in respect of the Proprietorship Concern M/s.Trans Continental Traders, in his favour and carry on business under the name and style of M/s.Trans Continental Traders, which is specified in the schedule hereto.

2. The case of the petitioner as culled out from the petitioner is as follows:

(a) The petitioner is carrying on business at "Z" House, No.116, Bells Road, Chepauk, Chennai-600 005.

(b) Late Janab Syed Moinuddin Sahib was a permanent resident of Chennai and ordinarily residing at No.72/6-C, Sriman Srinivasan Road, Alwarpet, Chennai-600 018, and he passed away on 04.02.2019 at his residence. He left the business, i.e. M/s.Trans Continental Traders, a Proprietorship concern, having Corporate Office at "Z" House, No.116, Bells Road, Chepauk, Chennai-600 005. The value of the firm is approximately Rs.2,00,000/- and is situated within the jurisdiction of this Court.

(c) The deceased Janab Syed Moinuddin Sahib married the first respondent and through the said marriage, the petitioner and the respondents 2 and 3 were born and the petitioner and the respondents are the surviving legal heirs to succeed the Estate of the deceased. The parents of the deceased pre-deceased the deceased.

(d) The petitioner's father, i.e. the above said deceased, passed away on 04.02.2019 and after his death, the petitioner took over the business and the respondents have also executed an affidavit of declaration as early as in the month of December 2019, declaring that they have no objection for

transferring the business of the deceased in favour of the petitioner. The petitioner has also informed the licensing authority, viz., Ministry of External Affairs, to transfer the licence in favour of the petitioner, to conduct the business M/s.Trans Continental Traders. But the Ministry of External Affairs failed to accept the said explanation and also the no objection given by the respondents in favour of the petitioner, and insisted the petitioner to obtain a Succession Certificate for transferring the licence in favour of the petitioner. Hence, the petitioner has filed this Original Petition.

(e) 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 the grant of the Certificate or the validity thereof, if it is granted.

(f) The petitioner has truly set forth in Schedule hereto, the securities or debts in respect of which the Certificate is applied for. The Succession Certificate is required for the purpose of transferring the licence in favour of the petitioner in respect of Proprietorship concern M/s.Trans Continental Traders. The net value of the Proprietorship concern M/s.Trans Continental Traders is Rs.2,00,000/-. The assets in respect of which the Succession

Certificate is required are of the value of Rs.2,00,000/-.

(g) No application has been made to any District Court or delegate or to any High Court for probate of any Will of the deceased or for Letters of Administration with or without the Will annexed to his properties and credits.

(h) No application for the Succession Certificate in respect of any debt or security belonging to the Estate of the deceased, had been made to any District Court or delegate or to any High Court.

(i) The petitioner does not intend to serve notice of this petition on the respondents, since they have already executed a Consent Affidavits expressing their No Objection for granting Succession Certificate to the petitioner and notice to the respondents is dispensed herewith.

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

3. The petitioner examined himself as P.W.1 and marked Exs.P-1 to P-8. Ex.P-1 is the downloaded copy of the Certificate of Incorporation of M/s.Trans Continental Traders with MSME. Ex.P-2 is the computer

generated Death Certificate of Syed Moinuddin Sahib, who died on 04.02.2019. Ex.P-3 is the computer generated Legal Heirship Certificate, dated 27.02.2019 in respect of Syed Moinuddin Sahib. Ex.P-4 (series - 3 numbers) are the photocopies of the Affidavit of Declaration (No Objection Affidavits) given by the respondents. Ex.P-5 is the photocopy of the Aadhar Card of the petitioner, bearing No.6902 8561 3755. Ex.P-6 is the photocopy of the letter dated 29.07.2019 issued by the Ministry of External Affairs, Government of India, insisting for Succession Certificate for transferring the licence in favour of the petitioner. Ex.P-7 is the original Certificate issued "To Whomsoever it may concern", dated 05.08.2021 by the Protector of Emigrants-II, Government of India, Ministry of External Affairs, Chennai, certifying that the enclosed copy of the Registration Certificate No.B-0817/MAD/PER/1000+/5/552/1984 issued on 03.07.2004 by the Protector General of Emigrants, Ministry of Overseas Indian Affairs, New Delhi, is verified in original by the Protector of Emigrants, Ministry of External Affairs, Chennai and forwarded to the Office of the Protector General of Emigrants, New Delhi, for change of Proprietorship. Ex.P-8 is the copy of the paper publication effected in an issue of Tamil daily "Malai Malar",

dated 11.03.2021.

4. Considering the averments made in the petition and the documents filed by the petitioner, this Court is satisfied that the petitioner has 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 petitioner with power to transfer the licence in respect of the Proprietorship Concern M/s.Trans Continental Traders, in his favour and carry on business under the name and style of M/s.Trans Continental Traders, which is specified in the schedule hereto. The petitioner is directed to render accounts once a year.

24.08.2021

Speaking Order: Yes
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V.PARTHIBAN, J

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