

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.08.2021

Coram:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

Original Petition No.846 of 2019

1. Mrs.Kamala, D/o Late Balraj
2. Mrs.S.Nirmala, W/o Surendran
3. Mr.B.Suresh, S/o Late Balraj
4. Mrs.Vimala, W/o Selvam .. 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 debts and to receive interest specified in the schedule hereto.

Schedule

The details of debts of the deceased B.Gowthaman is as mentioned below:

<i>Sl. No .</i>	<i>Name of the debtor</i>	<i>Amount of debt, including interest, on the date of application for Certificate</i>	<i>Description and date of instrument if any, by which the debt is secured</i>
1	The Tamil Nadu State Apex Co-operative Bank Ltd., Periyamet Branch	Rs.90,423/-	Savings Bank Pass Book of B.Gowthaman A/c.No.708736774

For petitioners : Mr.S.R.R.Raaghavan

ORDER

This Original Petition is filed to grant Succession Certificate to the petitioner, with power to collect the debts and to receive interest specified in the schedule.

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

(a) The deceased B.Gowthaman ordinarily resided at No.4/3/2, Naval Hospital Road, 6th Street, Periyamet, Chennai-600 003 and he died on 13.08.2016 in his residence at the aforesaid address and left the properties specified in the schedule hereto within the jurisdiction of this Court in the State of Tamil Nadu.

(b) The deceased died intestate and that due and diligent search had been made for a Will, but none has been found.

(c) At the time of his death, the deceased had left the petitioners as his only surviving legal heirs, viz., the first petitioner as his elder sister, the second petitioner as his another elder sister, the third petitioner as his elder brother and the fourth petitioner as his another elder sister. Except the petitioners 1 to 4, there are no other Class-I legal heirs to the deceased. The father of the deceased, i.e. Mr.Balraj had died on 23.05.2001 and the mother

of the deceased, i.e. Mrs.B.Ruth (before conversion of religion, her name was Lakshmi) died on 08.12.2004. The deceased was unmarried at the time of his death. The petitioners are only the legal heirs of the deceased, each claims to be entitled to 1/4 share in the Estate of the deceased.

(d) The deceased, during his lifetime, had not acquired any other property except the Savings Amount in his Bank Account in respect of which the Certificate is applied for as truly set forth in Schedule. In fact, the deceased has borrowed about seven sovereigns of Gold jewels of the first petitioner from her and has pledged the same for his urgent need of money. The above said jewels are borne by her parents at the time of her marriage. Subsequently, the deceased had died. After the death of the deceased, when the first petitioner approached the Finance Company for the release of the above jewels, the Bank Officials have stated that the jewels are going to be sold in auction. Accordingly, it has come for auction also, and was sold. Subsequently, the officials of the Financial Institution has deposited the remaining amount of money, from the Auction Sale Consideration Amount after deducting the pledge amount with interest, in the above stated Savings Bank Account of the deceased in the Tamil Nadu State Apex Co-operative

Bank Ltd., Periyamet Branch, in which the account of the deceased had been maintained. Therefore, the first petitioner alone is entitled to withdraw the amount in the Bank Account of the deceased. Therefore, when she approached the Bank for the same, the Manager has called upon the first petitioner for production of the necessary Succession Certificate from the competent Court for the withdrawal of the amount. So, the Succession Certificate is required to the first petitioner for the purpose as stated above. The said purpose in respect of which the Succession Certificate is required is of the value of Rs.90,423/-.

(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 Succession Certificate or the validity thereof, if it were granted.

(f) The deceased, during his lifetime, had kept only the Savings in his Bank Account as detailed in the schedule.

(g) No application has been made to any District Court or to its 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 a 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 petitioners 2 to 4 have no objection for the grant of Succession Certificate in favour of the first petitioner to collect the aforesaid debts of the deceased with interest.

(j) 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 herself as P.W.1 and marked Exs.P-1 to P-13. Ex.P-1 is the computer generated Death Certificate of the deceased Mr.B.Gowtham, who died on 13.08.2016. Ex.P-2 is the photocopy of the Aadhar Card of Mr.B.Gowthaman, bearing No.2861 9023 5302. Ex.P-3 is the photocopy of the Savings Account Pass Book of the Tamil Nadu State Apex Co-operative Bank Limited bearing Account No.708736774 in respect

of Mr.B.Gowthaman. Ex.P-4 is the computer generated Death Certificate of Mr.K.Paul Raj, who died on 23.05.2001. Ex.P-5 is the computer generated Death Certificate of Mrs.P.Ruth, who died on 08.12.2004. Ex.P-6 is the photocopy of the Family Card showing the deceased Gowthaman as one of the family members. Ex.P-7 is the Aadhar Card of the first petitioner, bearing No.2986 7366 2035. Ex.P-8 is the Aadhar Card of the second petitioner bearing No.9626 8400 4527. Ex.P-9 is the Voter ID Card of the third petitioner bearing No.ZW10909721. Ex.P-10 is the Aadhar Card of the fourth petitioner bearing No.6769 0054 8590. Ex.P-11 is the photocopy of the Rejection Order dated 06.10.2017 by Tahsildar, Puraisawalkam to the application submitted by the first petitioner for issuance of the Legal Heirship Certificate. Ex.P-12 is the photocopy of the Rejection Letter dated 21.06.2019 by Tahsildar, Puraisawalkam in the application submitted by the first petitioner for issuance of the Relationship Certificate. Ex.P-13 is the copy of the paper publication effected in one issue of Tamil daily "Makkal Kuarl" dated 18.03.2021.

4. 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 debts and to receive interest specified in the schedule hereto. The first petitioner is directed to render accounts once a year.

25.08.2021

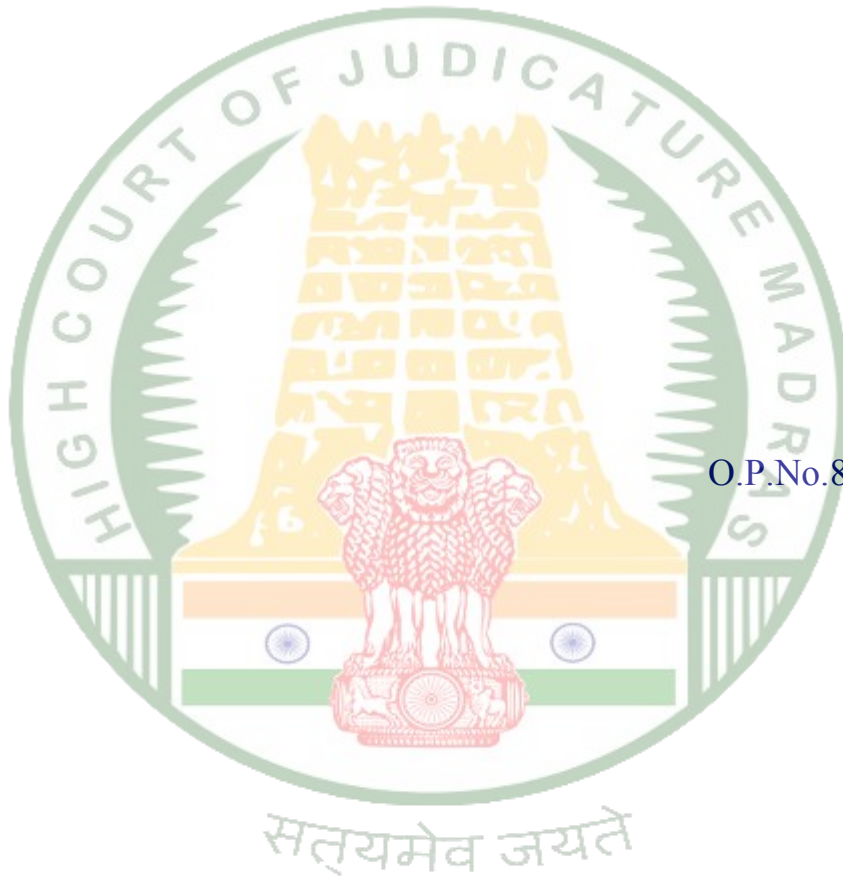
Speaking Order: Yes
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V.PARTHIBAN, J

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