



O.P.No.584 of 2016

O.P.No.584 of 2016

WEB COPY P.VELMURUGAN, J.

This Original petition has been filed for grant of succession certificate for the deceased M.Edwin Thankaraj.

2. It is the case of the petitioners that one M.Edwin Thankaraj married the first petitioner on 31.10.2003 under the Christian Marriage Act and they got the second petitioner out of their wedlock. They have got Aadhar card, Ration card with the address where she residing with M.Edwin Thankaraj. When M.Edwin Thankaraj was in service, he had taken steps to nominate the first petitioner as his nominee. However, the Department has not effected the said nomination in the record and returned such papers to the petitioners' after the death of M.Edwin Thankaraj. Hence the petitioners have filed the present Original Petition seeking for Succession Certificate. In order to prove the case of the petitioners, the first petitioner was examined as PW1 and the brother of the deceased M.Edwin Thankaraj was examined as PW2 and both of them have filed their proof affidavits and filed 19 documents which were marked as Ex.P1 to Ex.P19.



O.P.No.584 of 2016

3. The death certificate of M.Edwin Thankaraj who died on 31.03.2015 has been marked as Ex.P1. The legal heirship certificate of M.Edwin Thankaraj dated 01.03.2016 has been marked as Ex.P2. Ex.P3 is the ration card in which the name of M.Edwin Thankaraj and the first petitioner are mentioned. Aadhaar card of the first petitioner Ex.P4 clearly shows that the first petitioner is the wife of the deceased M.Edwin Thankaraj. The birth certificate of the second petitioner has been marked as Ex.P5 which shows that M.Edwin Thankaraj is the father of the second petitioner. After the death of M.Edwin Thankaraj, the petitioners made a representation dated 25.09.2015 before the first respondent department in which M.Edwin Thankaraj was working at the time of his death and the same has been marked as Ex.P6. The letter dated 05.02.2016 addressed by the first respondent Department to the first petitioner has been marked as Ex.P7 and the letter dated 26.04.2016 addressed to the first petitioner by the first respondent Department has been marked as Ex.P8. The driving licence of the brother of the deceased has been marked as Ex.P10. The Electoral identity card of the first petitioner has been marked as Ex.P11 and the Electoral identity card of M.Edwin Thankaraj has been marked as Ex.P12.



O.P.No.584 of 2016

The Health Insurance Card in respect of the first petitioner issued by the Government of Tamil Nadu under the New Health Insurance Scheme has been marked as Ex.P13. The Health Insurance Card in respect of the first petitioner issued by the Star Health and Allied Insurance in collaboration with the Government of Tamil Nadu has been marked as Ex.P14. The family card of the deceased M.Edwin Thankaraj for the period 2005-2009 has been marked as Ex.P15 in which the name of the first petitioner has been changed in the place of M.Edwin Thankaraj after the demise of M.Edwin Thankaraj. The Child Health Card has been marked as Ex.P16. The sworn affidavit dated 29.11.2006 of the deceased M.Edwin Thankaraj has been marked as Ex.P17. The sworn affidavit dated 16.04.2007 of the deceased M.Edwin Thankaraj has been marked as Ex.P18. The family migration certificate dated 16.03.2005 issued by Tahsildar, Poonamallee Taluk has been marked as Ex.P19.

4. The case of the first respondent is that the deceased M.Edwin Thankaraj was an employee of Combat Vehicle Research and Development Estate and he died on 31.03.2015 while he was in service. One B.Santi claiming to be the wife of the deceased M.Edwin Thankaraj and



O.P.No.584 of 2016

E.R.Amutha Rani claiming to be the daughter of the deceased M.Edwin

Thankaraj have filed this petition for obtaining the succession certificate.

The deceased M.Edwin Thankaraj while he was in service, had purchased a plot after intimating the office. As per the office records, one M.Chandra Bai has been nominated as the wife and Juliet and Malathi as the daughters of the deceased M.Edwin Thankaraj in the details of family for the purpose of LTC and Medical Claims form and the said form was submitted by the deceased officer on 31.07.1990. After the demise of M.Edwin Thankaraj, M.Chandra Bai has submitted an application dated 02.09.2015 along with the copy of certificate of marriage dated 10.02.1988 as proof of marriage with M.Edwin Thankaraj and copies of authorization of pension identity card, PAN card and Ration Card as proof for her identity claiming the final benefits of the deceased M.Edwin Thankaraj. However, she has not submitted the legal heirship certificate of the deceased M.Edwin Thankaraj. In the meanwhile, B.Santi, the first petitioner herein has submitted an application dated 25.09.2015 along with the copy of marriage certificate with the deceased M.Edwin Thankaraj and copies of Aadhaar card, Identity card, Ration card, Election card, LIC Insurance card, Family migration card,



O.P.No.584 of 2016

Birth certificate of the second petitioner, Aadhaar card of the second petitioner and Transfer Certificate of the second petitioner as proofs of her and her daughter. She has also submitted the legal heirship certificate dated 01.03.2016. The second respondent does not have any supporting documents for the property purchased by the deceased at Thiruvannamiyur. Since there was rival claims regarding collection of the benefits of the deceased M.Edwin Thankaraj, the first respondent praying for order of this Court, so as to enable them to decide to whom the benefits has to be given.

5. It is the case of the second respondent that she married one I.Cephas Anugraham on 05.11.1975 and two girl children were born to them out of the said wedlock and thereafter, the said I.Cephas Anugraham died on 26.03.1980. At the time of demise of I.Cephas Anugraham, the elder girl was aged 4 years and the second child was aged 2 ½ years. The deceased M.Edwin Thankaraj is her distant relative and at the advice made by their family members, she remarried M.Edwin Thankaraj on 10.02.1988 before the Marriage Registrar, Madras. M.Edwin Thankaraj died on 31.03.2015 while he was in service. Hence she made a representation to the first respondent on 02.09.2015 requesting to settle the death and pension benefits



O.P.No.584 of 2016

of M.Edwin Thankaraj and to grant family pension to her. The first respondent Department informed the second respondent to obtain a Succession Certificate from the Court of Law. While she was proceeding to apply for the same, she received a private notice in O.P.No.584 of 2016 (present original petition) wherein she was impleaded as a party in the petition by the first petitioner, B.Santi claiming herself as the wife of the deceased M.Edwin Thankaraj. The second respondent further stated that she is the legally wedded wife of the deceased M.Edwin Thankaraj and their marriage was registered before the Marriage Registrar, Madras in Sl.No.13/1988 and the marriage certificate has also been obtained. M.Edwin Thankaraj nominated his wife, the second respondent and the two daughters as his nominee in the service register and till the death of M.Edwin Thankaraj, the marriage between the second respondent and M.Edwin Thankaraj is in subsistence. The first petitioner claiming herself as wife and the second petitioner claiming herself as the daughter of the deceased are not valid in the eye of law. Therefore, she prays that the succession certificate has to be granted in favour of her and her daughters and also prays for dismissal of this petition. In order to substantiate her



claim, she has filed three documents which were marked as Ex.R1 to Ex.R3

viz., the marriage certificate of the second respondent and the deceased M.Edwin Thankaraj has been marked as Ex.R1, the certified copy of the Service Register of the second respondent has been marked as Ex.R2 and the proceedings of the Directorate of Technical Education in No.44126/D3/90 dated 17.09.1990 has been marked as Ex.R3.

6. Learned counsel for the petitioners would submit that the first petitioner is the legally wedded wife of M.Edwin Thankaraj and their marriage took place on 31.10.2003 under the Christian Marriage Act. The said M.Edwin Thankaraj died intestate on 31.03.2015 leaving behind the petitioners as his only legal heirs. After the death of M.Edwin Thankaraj, they also obtained legal heirship certificate of M.Edwin Thankaraj from Tahsildar and approached the department in which M.Edwin Thankaraj was working for pension and other benefits. The first respondent department stated that M.Edwin Thankaraj nominated the second respondent as the nominee of the deceased M.Edwin Thankaraj and therefore, they refused to give retirement benefits to the petitioners. Therefore, they filed this petition.



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7. He would also submit that from the aforesaid documents filed on the side of the petitioners, it is clear that M.Edwin Thankaraj is the husband of the first petitioner and the father of the second petitioner. The first respondent Department has filed its counter stating that the deceased M.Edwin Thankaraj nominated the second respondent as the nominee and the petitioners are not the legal heirs of the deceased M.Edwin Thankaraj. The second respondent has been subsequently impleaded in the petition. In her proof affidavit, though she has stated that she is the legally wedded wife of the deceased M.Edwin Thankaraj, originally, she married one I.Cephas Anugraham on 05.11.1975 and he died on 26.03.1980. However, she failed to file the death certificate of I.Cephas Anugraham. She has further stated that she remarried the deceased M.Edwin Thankaraj on 10.02.1988 before the Marriage Registrar, Madras in Sl.No.13/1988. However, as per the Christian religious, a christian marriage would be performed only in the church but not in the Registrar Office. Therefore, the second respondent has not proved that on the date of alleged marriage took place between the second respondent and the deceased M.Edwin Thankaraj, the first husband of the second respondent died and hence, the second respondent is not the



O.P.No.584 of 2016

legally wedded wife of the deceased M.Edwin Thankaraj and the first respondent without any reason denied the claim of the petitioners.

Therefore, the petitioners has proved their claim and the succession certificate has to be issued in their favour.

8. Learned counsel for the second respondent would submit that originally the second respondent married one I.Cephas Anugraham in the year 1975. Thereafter, he died in the year 1980 and the second respondent remarried M.Edwin Thankaraj on 10.02.1988. In order of prove the same, she marked Ex.R1 which clearly shows that the marriage solemnized between M.Edwin Thankaraj and the second respondent and no record has been produced by the petitioners to establish that the marriage held between the second respondent and M.Edwin Thankaraj was dissolved and hence, the marriage said to have been held between the first petitioner and M.Edwin Thankaraj is not valid and the marriage held between the second respondent and M.Edwin Thankaraj was subsisting and the second respondent is the legally wedded wife of the deceased M.Edwin Thankaraj. Though the petitioners have produced the death certificate and legal heirship certificate of the deceased M.Edwin Thankaraj, the service register



O.P.No.584 of 2016

of the deceased M.Edwin Thankaraj shows that the second respondent is the wife of the deceased and he has nominated the second respondent and her daughters as his nominees. Therefore Ex.R1 which is the marriage certificate / public documents unless it is contrarily proved, the genuineness of the certificate cannot be questioned. Therefore, the petitioners have not produced any document to show that the marriage was held between the first petitioner and M.Edwin Thankaraj. Though the petitioners have produced the documents like legal heirship certificate, aadhaar card and other documents, all the documents are only subsequent to the marriage certificate dated 10.02.1988, Ex.R1. Therefore, the petitioners cannot be claimed to be the legal heirs of the deceased M.Edwin Thankaraj and this petition has to be dismissed.

9. Heard the learned counsel and perused the records.

10. Admittedly one M.Edwin Thankaraj was working in the first respondent Department and died on 31.03.2015. After the death of M.Edwin Thankaraj, both the petitioners and the second respondent made rival claims before the first respondent for obtaining the death benefits of M.Edwin Thankaraj. The first petitioner claims to be the wife of the deceased



O.P.No.584 of 2016

M.Edwin Thankaraj and the second petitioner claims to be daughter of the deceased M.Edwin Thankaraj in this petition and the first petitioner has stated that she married M.Edwin Thankaraj on 31.10.2003 and she is the legally wedded wife and she produced the death certificate, legal heirship certificate and other documents like Aadhaar card, Ration card and the documents like transfer certificate of the second petitioner claiming that they are the legal heirs of the deceased M.Edwin Thankaraj. The first respondent Department in which M.Edwin Thankaraj was working, have stated that while M.Edwin Thankaraj was in service, he nominated Chandra Bai as his nominee who was subsequently added as the second respondent and she also made her claim and produced service register and also marriage certificate.

11. The second respondent filed a counter and also examined herself as RW1 and marked three documents viz., Ex.R1 to Ex.R3. The service register of Chandra Bai has been marked as Ex.R2 wherein the name of the husband of the second respondent was mentioned as M.Edwin Thankaraj. Therefore the second respondent has proved that she is the legally wedded wife of the deceased and the first petitioner alleged to be the legally wedded



O.P.No.584 of 2016

wife of the deceased have failed to prove that the marriage held between the second respondent and M.Edwin Thankaraj has been dissolved and hence, the marriage held between the second respondent and M.Edwin Thankaraj was in subsistence, till the death of M.Edwin Thankaraj.

12. Therefore, this Court is of the considered view that the succession certificate has to be granted to the second respondent. Accordingly, the petition filed by the petitioners is dismissed and the second respondent is entitled to get the succession certificate. Registry is directed to issue succession certificate to the second respondent on payment of succession duty.

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O.P.No.584 of 2016

P.VELMURUGAN, J

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O.P. No.584 of 2016

08.04.2022