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Tr O.P.No.705 of 2021
and
O.P.No.852 of 2015

C.V.KARTHIKEYAN,J.

The entire issue surrounds the bank deposits and other securities and the post office account of M.V.Padmanabhan. His first wife was Gajalakshmi. Their daughter P.Shanthi, is the petitioner in O.P.No.852 of 2015. Subsequently, M.V.Padmanabhan had married P.Nirmala. The cause for filing these petitions under Section 372 of the Indian Succession Act, 1925, arose owing to the death of the P.Nirmala.

2.P.Shanthi claims to be the sole surviving Class – I heir. She filed O.P.No.852 of 2015 seeking succession certificate.

3.P.Nirmala had four sisters. They had originally filed SOP.No.705 of 2014 before the District Court, Coimbatore and the same had been transferred to this Court and numbered as Tr O.P.No.705 of 2021. They are Class – II heirs of P.Nirmala.

4.Naturally, they stand excluded, owing to the fact that P.Shanthi being alive as daughter of M.V.Padmanabhan. No doubt she was born through his first wife Gajalakshmi, still she is the only legal heir, so far as her stepmother is concerned. There is no issue raised about the validity of the said marriage.



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smv

5.In view of the same, without any further discussion, since Class – II heir cannot maintain the petition, when a Class – I heir is alive, the Tr.O.P.No.705 of 2021 is dismissed.

6.Even though, Tr.O.P.No.705 of 2021 stands dismissed, notice is taken of the representation made by the learned counsel on behalf of those petitioners that it would be fruitful, if P.Shanthi comes forward to settle some amount with them, taking into consideration the fact that they are sisters of Nirmala. I would will leave it to the wisdom of the respective parties on that ground.

7.Post O.P.No.852 of 2015 before the learned Master for recording evidence and after recording evidence the matter may be listed before this Court.

17.10.2022

smv

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