



IN THE HIGH COURT OF JUDICATURE AT MADRAS
(TESTAMENTARY AND INTESTATE JURISDICTION)

THURSDAY, THE 24TH DAY OF MARCH 2022

THE HON'BLE MR. JUSTICE P.VELMURUGAN

O.P.No.1186 of 2018
and
A.No.2369 of 2020

In the matter of Indian
Succession Act, XXXIX of
1925 and

In the matter of certain debts
of A.Kathirvelu Deceased
Intestate

1. Mrs.PUSHPA K.
W/o.Late A.Kathirvelu.

2. K.JOTHILAKSHMI
D/o.Late A.Kathirvelu.

3. K.VINOTH KUMAR
S/o.Late A.Kathirvelu.

1 to 3 are residing at
No.6, John Kennady Nagar,
Vyasarpadi, Chennai-600039.

..Petitioner

-Vs-

1. MRS.PADMINI * (**DECEASED**)

2. K.LENIN KUMAR
Both 1 and 2 are residing at
No.89/44, Iyyappa Street,
Mannady, Chennai-600001.



*** (2nd respondent is the only legal heir of
1st respondent amendment carried
out as per order dt 24.1.2020)**

..Respondents

A.No.2369/2020:

1. Mrs.PUSHPA K.
W/o.Late A.Kathirvelu.

2. K.JOTHILAKSHMI
D/o.Late A.Kathirvelu.

3. K.VINOTH KUMAR
S/o.Late A.Kathirvelu.

1 to 3 are residing at
No.6, John Kennady Nagar,
Vyasarpadi, Chennai-600039.

..Applicants/Petitioners

-Vs-

1. MRS.PADMINI * **(DECEASED)**

2. K.LENIN KUMAR
Minor, aged about 14 years,
Represented by own sister and present
Guardian Mrs.Nasreen Fathiam,
No.4, Vinayaga Avenue,
Nanthavanam Nagar,
Nanthambakkam,
Kundrathur,
Chennai-600 069

..Respondents/Respondents

O.P.No.1186 of 2018:

These Original Petition along with application praying that this Hon'ble

Court be pleased that a Succession Certificate may be granted to the 1st



petitioner with power to collect the debts and to receive the interest as specified in the schedule. In the petition.

A.No.2369 of 2020:

This application praying that this Hon'ble Court be pleased to order to appoint Mrs.Nasreen Fathima W/o.Mr.Umapathy, residing at No.4, Vinayaga Avenue, Nanthavanam Nagar, Nanthambakkam, Kundrathur, Chennai 600 069 as Guardian of Minor K.Lenin Kumar, the 2nd Respondent herein for further proceedings of the case.

These Original Petition along with application are coming on this day before this court for hearing the court made the following order:

This Original petition has been filed by the petitioners who are the legal heirs of the deceased A.Kathirvelu who died intestate on 28.12.2015 for grant of succession certificate in favour of the 1st petitioner.

2. The first petitioner is the wife, the 2nd and 3rd petitioners are the daughter and son of the deceased A.Kathirvelu. Since the deceased A.Kathirvelu died intestate leaving behind the petitioners who are his legal

heirs, they have filed this petition for grant of succession certificate. The 1st



and 2nd respondents are also alleged to be the wife and son of the deceased A.Kathirvelu. The details of the securities for which the Succession Certificate is sought for, are furnished in the schedule to the petition and its value is Rs.7,55,712/-, according to the petitioners.

3. The 1st petitioner who is the wife of the deceased A.Kathirvelu. has deposed as PW1 before the learned Master in support of this petition for grant of succession certificate. Before the learned Master, the following documents were marked as Exhibits.

<i>Exhibits</i>	<i>Nature of the documents</i>
P1	The photocopy of Marriage Invitation of the 1 st petitioner dated 14.09.1986
P2	The photocopy of Identity card in respect of P.W.1's husband A.Kathirvel issued by Government Stanley Medical College and Hospital, Chennai
P3	The original Voter Identity card in respect of my husband Kathirvel
P4	The original death certificate of P.W.1's husband A.Kathirvel, who died on 28.12.2015
P5	The photocopy of the Legal Heirship Certificate dated 18.03.2016 in respect of P.W.1's husband A.Kathirvel
P6	The photocopy of Advocate notice dated 11.04.2017 issued by 1 st respondent
P7	The photocopy of 1 st respondent sworn affidavit dated 26.09.2017
P8	The original petitioner's Advocate notice sent to the employer of P.W.1's deceased husband A.Kathirvel
P9	The original reply notice dated 06.09.2018 sent by the employer of P.W.1's deceased husband A.kathirvel to P.W.1



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4. An averment has also been made in the petition that no application has been made to any District Court or delegate or to any High Court for the Probate of any Will of the said deceased or for Letters of Administration with or without the Will annexed to his properties and credits. No application for Succession Certificate in respect of any debts or security belonging to the estate of the said deceased has been made to any District Court or delegate or to any High Court.

5. This Court has perused and examined the aforementioned documents. The first petitioner was examined as P.W.1 by filing proof affidavit and 9 documents were marked as Ex.P1 to Ex.P9. As seen from the original death certificate marked as Ex.P4, A.Kathirvelu died on 28.12.2015 and as seen from the Legal Heirship certificate, marked as Ex.P5 shows that the petitioners are the legal heirs of the deceased A.Kathirvelu. The first respondent has given sworn affidavit dated 26.09.2017 which has been marked as Ex.P7, stating that she has no objection for grant of provident fund, pension, gratuity and job on compassionate ground to the petitioners, on the basis of promise made by the petitioners that they shall give a sum of Rs.1,50,000/- out of the above mentioned benefits of the deceased A.kathirvelu to the respondents.



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6. During the pendency of this petition, the first respondent died on 19.09.2019 and the second respondent was brought on record as the legal representative of the deceased first respondent. Thereafter, the matter was referred to the Mediation and Conciliation Centre wherein the parties have filed a Joint Compromise Memo dated 02.03.2022.

7. After giving due consideration to the averments contained in the petition as well as the Exhibits marked on the side of the petitioners, this Court is of the considered view that the relief of succession certificate sought for by the petitioners in OP No.1186 of 2018 has to be granted in favour of the first petitioner.

8. Registry is directed to issue succession certificate if the succession duty already paid or otherwise registry is directed to recover the succession duty for issuance of succession certificate.

Sd/.P.V.J.
24.03.2022

//Certified to be a true copy//

Dated at Madras this the day of 2022.

Su/07.04.2022

COURT OFFICER(O.S.)

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