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O.P.No.253 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2023

CORAM

THE HONOURABLE Ms.JUSTICE **R.N.MANJULA**
O.P.No.253 of 2023

1. Mrs.Prema Nair
 2. Mrs.Amrita Nair
 3. Mrs.Anita Nair
 4. Mr.Anand Nair
- (Petitioners 2 to 4 are represented by their
Authorised Power Agent Mrs.Prema Nair.

... Petitioners

Original Petition filed under Section 372 of The Indian Succession Act, 1925 r/w. Order XXV Rule 6 of the Madras High Court Original Side Rules, 1956 to grant succession certificate to the petitioners herein with power to the 1st petitioner herein to collect the the amount/debt and to receive interest thereon and deal with the Schedule mentioned bank account hereto.

For Petitioners : Mr.Subramanian Vaidyanathan

ORDER

The petition is filed under section 372 of the Indian Succession Act, 1925 r/w. Order XXV Rule 6 of the Madras High Court Original Side Rules, 1956 seeking issuance of Succession Certificate to the first petitioner with



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power to collect the the amount/debt and to receive interest thereon and deal with the Schedule mentioned bank account hereto.

2. The 1st petitioner's husband by name Kazhan Godath Akbar Nair was running a proprietary concern by name M/s.Southern Navigator and was operating an account in the name of the proprietary concern in HDFC Bank, T.Nagar Branch, Chennai. The said Kazhan Godath Akbar Nair died intestate on 20.02.2022 by leaving behind his wife/the 1st petitioner herein, two daughters/petitioners 2 & 3 and his son/the 4th petitioner herein as his only legal heirs. At the time of his death, there is a Bank balance of Rs.78,96,874/- lying within the account of the proprietary concern run by Kazhan Godath Akbar Nair. Since the bank requires succession certificate to be produced by the petitioners to withdraw the said amount from the Bank, the petitioners filed this petition for seeking succession certificate.

3. The 1st petitioner examined herself as PW.1 and Ex.P1 to Ex.P7 were marked through her and they are listed as hereunder:-



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<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Photocopy of the general power of attorney dated 24.10.2022 executed by the second petitioner in favour of the first petitioner (compared with the original)
Ex.P2	Photocopy of the general power of attorney executed in the month of September 2022 by the third petitioner in favour of the first petitioner (compared with the original).
Ex.P3	Photocopy of the general power of attorney dated 29.09.2022 executed by the fourth petitioner in favour of the first petitioner (compared with the original).
Ex.P4	Computer generated death certificate of Mr.Kazhan Godath Akbar Nair.
Ex.P5	Computer generated Legal Heirship Certificate of Mr.Kazhan Godath Akbar Nair
Ex.P6	Downloaded copy of the account statement of HDFC Bank for the period 01.02.2022 to 08.07.2022 in respect of the account of M/s.Southern Navigator.
Ex.P7	Copy of Paper publication effected in one issue of Tamil daily “Makkal Kural” dated 18.07.2023.

4. The children of the first petitioner, who are the petitioners 2 to 4 had given power of attorney in favour of the first petitioner to make appearance on their behalf. The power of attorney documents executed by the petitioners 2 to 4 have been marked as Exs.P1 to P3. The Registration certificate issued by the Government of India in the Trade name M/s.Southern Navigator has also been produced as a document and it is now



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marked as Ex.C1. From the Registration certificate, it is seen that the registration certificate for M/s.Southern Navigator had been given in the name of Kazhan Godath Akbar Nair. From the death certificate of Mr.Kazhan Godath Akbar Nair, it is seen that he died on 20.02.2022. Ex.P5 is the computer generated legal heirship certificate of the deceased Kazhan Godath Akbar Nair, which would show that the petitioners alone are the legal heirs of the deceased. The paper publication issued in Tamiil daily “Makkal Kural” dated 18.07.2023 did not attract any objectors. The Bank statement, which has been marked as Ex.P6 would show that the bank account was operated by the husband of the first petitioner. Since M/s.Southern Navigator has been proved to be a proprietary concern and it was run by the husband of the first petitioner, Kazhan Godath Akbar Nair and on the death of the said Kazhan Godath Akbar Nair, the petitioners are entitled to inherit the bank balance standing in the name of M/s.Southern Navigator equally among themselves, as the legal heirs of its proprietor. Since the petitioners 2 to 4 have given power of attorney in favour of the first petitioner, the succession certificate can be issued in the name of the first petitioner.



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5. Hence, the Original petition is ordered and the Succession Certificate shall be issued in favour of the first petitioner, with power to collect the the amount/debt and to receive interest thereon and deal with the Schedule mentioned bank account hereto on payment of appropriate succession duty, if it is not paid already.

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Index :Yes/No

Speaking Order : Yes/No
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