



O.P.No.496 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **02.06.2023**

CORAM

THE HONOURABLE **MR.JUSTICE K.KUMARESH BABU**

**O.P.No.496 of 2022**

Mrs.M.Sakunthala

... Petitioner

Vs.

M.Jeeva Shree

... Respondent

**PRAYER:** Original Petition filed for Succession Certificate under Section 372 of the Indian Succession Act, 1925 and under Order XXV Rule 6 of Original Side Rules, prays that a Succession Certificate may be granted to the petitioner with power to collect the debts and to receive the interest if any specified in the schedule hereunder in the name of the Mrs.Sakunthala, the petitioner herein.

For Petitioner : Mr.P.K.Ganesh

For Respondent : No Appearance

**ORDER**

The petitioner seeks Succession Certificate in respect of the debts held by M.Sivakumar, who died intestate on 18.05.2021. The petitioner is the mother and the respondent is the wife of the deceased M.Sivakumar.

2. The petitioner states that the deceased M.Sivakumar is her son and he died due to Covid-19 and he is married to the respondent and the respondent and the deceased had matrimonial issues and the petitioner's son had filed a divorce case against the respondent in O.P.No.1738 of 2011 and the respondent filed a petition for restitution of Conjugal rights against the



O.P.No.496 of 2022

deceased in O.P.No.32 of 2012 and the same were dismissed on 18.10.2021 after the demise of the deceased M.Sivakumar. The son of the petitioner was employed at Ashok Leyland Company, Chennai. The petitioner along with the respondent are the only legal heirs of the deceased, and are entitled to equal share. The petitioner further submits that when she had applied for a legal heirship certificate the same was rejected as the respondent being the wife of the deceased only has the right to apply for the same.

3. The petitioner has been examined as P.W.1. She has produced the death certificate of the deceased M.Sivakumar, as Ex.P1. The notice served to the respondent was returned as unserved stating that 'there is no such person in the address'. A paper publication has been made and any objections have not been received.

4. In view of the above said facts and evidence, the Original Petition is allowed by granting Succession Certificate in favour of the petitioner only for the half share in respect of the debts mentioned in the schedule to the petition.

**02.06.2023**

pbn

Index :Yes/No

Speaking: Yes/ No



O.P.No.496 of 2022

Neutral Citation: Yes/No

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**Petitioner's witness:**

P.W.1 — Mrs.M.Sakunthala

**Documents exhibited by the petitioners:**

| <i><b>Exhibits</b></i> | <i><b>Documents</b></i>                                                                                                                                                                                                                        |
|------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ex.P1                  | Computer generated death certificate of M.Sivakumar                                                                                                                                                                                            |
| Ex.P2                  | Original Application applied by the petitioner for legal heirship certificate vide Application No.TN-7202110081606, dated 08.10.2021                                                                                                           |
| Ex.P3                  | Online print out rejection for legal heirship certificate dated 17.10.2021 for Ex.P2                                                                                                                                                           |
| Ex.P4                  | Original letter sent by Ashok Leyland dated 22.02.2022 addressed to the petitioner asking for succession certificate from a competent court of law in respect of death cum service benefits relating to deceased M.Siva Kumar                  |
| Ex.P5                  | E-mail dated 08.04.2022 sent from Ashok Leyland addressed to the petitioner's daughter R.Vijayalakshmi stating that the details of settlement pending held by the deceased M.Sivakumar in Ashok Leyland and asking for succession certificate. |
| Ex.P6                  | Paper publication effected in Tamil daily “Makkal Kural”, dated 23.03.2023                                                                                                                                                                     |

**02.06.2023**

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O.P.No.496 of 2022

**K.KUMARESH BABU,J.**

pbn

**O.P.No.496 of 2022**

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