



O.P.No.174 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2023

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

O.P.No.174 of 2020

1.K.Jagannath

2.K.Shantanu

... Petitioners

PRAYER: Original Petition filed under Section 372 of Indian Succession Act, 1925 read with Order XXV Rule 6 of Original Side Rules, prays that a Succession Certificate may be granted to the first petitioner with power to collect the securities and to receive the interest and dividends on and negotiate and transfer the securities specified in the schedule hereto.

For Petitioners : Mr.Meenakshi Sundaram

ORDER

The petitioners seek the grant of a succession certificate to the first petitioner in respect of the securities described in the schedule to the petition.



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2. The petitioners assert that the first wife of the first petitioner and the mother of the second petitioner died intestate on 21.10.1993. It is further stated that she resided at the address specified in paragraph 4 of the petition, which is within the jurisdiction of this Court. The petitioners further assert that in spite of a diligent search, no Will was found. On the basis that the petitioners are the only legal heirs of the deceased, the present petition is filed.

3. In order to establish entitlement to the relief claimed, the first petitioner adduced evidence by examining himself as P.W.1. In course of the examination in chief of P.W.1, the 8 documents listed at the foot of this order were exhibited as Exs.P1 to P8. The original marriage certificate (Ex.P1) discloses that the first petitioner married Ms.Denise Smaller on 04.07.1991. Ex.P2 is the death certificate. The death certificate specifies that K.Jagannath died on 21.10.1993. The said death certificate sets out the address of the deceased, which tallies with the address specified in paragraph 4 of the petition. The original legal heirship certificate of Tmt.K.Jagannath is on record as Ex.P3. This document was issued on



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21.02.1994 and discloses the names of the petitioners herein as the legal heirs. As evidence of ownership of the relevant securities by the deceased, Exs.P4 to P6 have been placed on record. The consent affidavit of the second petitioner is on record(Ex.P7). Paper publication was effected(Ex.P8).

4. Since the name of the deceased in the marriage certificate does not tally with the name in the death certificate and the legal heirship certificate, I directed the second petitioner, who is said to be the son of the deceased, to file an affidavit. I also directed the present wife of the first petitioner to file an affidavit. Pursuant to such directions, the second petitioner has affirmed an affidavit on 23.02.2023. In the said affidavit, he asserts that Mrs.Denise Smaller was his mother. He further asserts that she was also known as Mrs.K.Jagannath. Consequently, he states that his father and himself are the sole legal heirs. These facts are endorsed in the affidavit of Mrs.K.Anitha Jagannath, the present wife of the first petitioner.



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5. Based on the assertions in the petition, the evidence adduced in support thereof and the affidavits filed by the second petitioner and Mrs.K.Anitha Jagannath, the petitioners are entitled to the relief claimed. Therefore, O.P.No.174 of 2020 is allowed by directing that a succession certificate be issued to the first petitioner in respect of the securities described in the schedule to the petition. Consequently, the first petitioner is entitled to collect the securities, receive dividends thereon and negotiate and transfer the same.

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Index : Yes / No

Internet : Yes / No

Petitioners' witness:

P.W.1 - Mr.K.Jagannath

Documents exhibited by the petitioners:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Original marriage certificate
Ex.P2	Computer generated death certificate of K.Jagannath



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<i>Exhibits</i>	<i>Documents</i>
Ex.P3	Original legal Heirship certificate of Mrs.K.Jagannath
Ex.P4	Original share certificate bearing certificate No. N610784 issued by the Nestle India Limited standing in the name of Denise Smaller, along with its bonus equity shares.
Ex.P5	Photocopies of the share certificate of Nestle India Limited standing in the name of Denise Smaller.
Ex.P6	Photocopies of the share certificate of Nestle India Limited standing in the name of Denise Smaller
Ex.P7	Consent affidavit given by the second petitioner
Ex.P8	Paper Publication effected in one issue of Tamil daily "Makkal Kural" dated 19.09.2020.

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