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O.P.No.724 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2023

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA
O.P.No.724 of 2022

1.Mrs.Gowhar Begum @ Fazal Fathima
2.Mrs.Raziya Begum

... Petitioners

Vs.

1.Mr.Ammanullakhan
2.Mr.Anver Khan
3.Mrs.H.Nazeem Akthar

... Respondents

PRAYER: Original Petition filed for Succession Certificate under Section 372 of Indian Succession Act, 1925 under Order XXV Rule 6 of Original Side Rules, prays that a Succession Certificate may be granted to the petitioners with the powers to collect 1/7th share each (totally 2/7th share) in the debts and to receive interest thereon each specified in the schedule 'B' hereto.

For Petitioners : Mr.K.Gopi

ORDER

This Original Petition has been filed under section 372 of the Indian Succession Act, 1925 seeking issuance of Succession Certificate to the petitioners in respect of 1/7th share each in the schedule mentioned debts of the deceased Asadulla Khan.H.

2.The averments in the Petition are as follows:-



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The petition mentioned assets in various Banks were owned and operated by one Asadulla Khan.H who died on 16.08.2014. The said Asadulla Khan.H remained unmarried. The petitioners and the respondents are the sisters and brothers of the deceased Asadulla Khan.H and they are the only surviving legal heirs of Asadulla Khan.H. The parents of Asadulla Khan.H predeceased him. Since Asadulla Khan.H died intestate, the petitioners and the respondents are entitled to inherit the petition mentioned assets. Each of the petitioners and the third respondent are entitled to 1/7 share and the respondents 1 and 2 are entitled to 2/7 share each in the petition mentioned assets. Since the petitioners are in need of Succession Certificate for withdrawing their shares in the amount lying in the Fixed Deposit and Saving Bank Account standing in the name of the deceased, the petitioners have filed this Original Petition.

3. Paper publication effected. There is no objector.

4. The first petitioner examined herself as PW.1 and Ex.P1 to Ex.P5 were marked.

5. From the death certificate Ex.P1, it is seen that Asadulla Khan.H



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died on 16.08.2014. The third respondent has already filed an Original Petition in O.P.No.722 of 2014 and it has been ordered on 15.04.2015 and the Succession Certificate has been granted in respect of 1/7 share belonged to the third respondent. The copy of the said order has been marked as Ex.P2. The paper publication effected in one issue of Tamil Daily "Makkal Kural" did not attract any objectors. The respondents have received notice and did not file any objections. Since the petitioners and the respondents alone are the only surviving legal heirs of the deceased Asadulla Khan.H, they are entitled to inherit the movable assets mentioned in the schedule in accordance with the Muslim Law.

6. The above oral and documentary evidence produced by the petitioners would prove their entitlement for the grant of Succession Certificate as prayed by them.

7. Hence:

(a) this Original Petition is ordered and

(b) The Succession Certificate shall be issued in favour of the petitioners, with power to collect 1/7th share each in the debts with interest and dividends on and negotiate and transfer the securities specified in the



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schedule to the Petition in equal proportion on payment of appropriate
succession duty, if not paid earlier.

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APPENDIX

Petitioners' side witness:

P.W.1 - Mrs.Gowhar Begum @ Fazal Fathima

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	The computer generated death certificate of Asadulla Khan.H.
Ex.P2	The certified copy of the order dated 15.04.2015 passed by this Court in O.P.No.722 of 2014.
Ex.P3	The photocopy of the petitioner's Aadhaar Card.
Ex.P4	The photocopy of the Pan Card of the 2nd petitioner.
Ex.P5	The paper publication effected in one issue of Tamil daily "Makkal Kural" dated 26.06.2023.

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R.N.MANJULA, J.

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