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O.P.No.430 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2023

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

**O.P.No.430 of 2022**

1.Miss.Edna Gomez  
2.Miss.Vida Gomez

... Petitioners

**PRAYER:** Original Petition filed 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 power to collect the securities and to receive the dividends accrued thereon and negotiate and transfer the securities specified in the schedule hereto.

For Petitioners : Ms.S.Jabeen  
for M/s.Menon Karthik

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## **ORDER**

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The petitioners seek grant of a succession certificate in respect of the securities listed in the schedule to this petition. The petitioners assert that they are the sisters of the late Mr.Oscar Titus Gomez, who died intestate as a bachelor on 15.10.2008. The petitioners also state that he resided at Choolaimedu, Chennai, which is within the jurisdiction of this court.

2. The petitioners further state that both the father and mother of the deceased pre-deceased him. They state that no Will was found in spite of a diligent search for the same. They also state that their brother Justin Titus Gomez died intestate as a bachelor on 17.02.2017 and that the sister of the deceased, Irene Gomez, died intestate and unmarried on 03.11.2019. On the basis that the petitioners are the only surviving legal heirs of Mr.Oscar Titus Gomez, the present petition is filed.

3. In order to establish entitlement to the relief claimed, the petitioners adduced evidence by examining the first petitioner as P.W.1. In course of the examination in chief of P.W.1, the 12 documents listed at the foot of this



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order were exhibited as Exs.P1 to P12. The death certificate of the late Mr.Oscar Titus Gomez(Ex.P1) discloses that he died on 15.10.2008. The said document also discloses his address and the said address is within the jurisdiction of this Court. The death certificate of the mother(Ex.P2) of the petitioners and the deceased, Mrs.Gomez, discloses that she died on 19.01.1998. The legal heirship certificate in respect of Mrs.Gomez(Ex.P5) discloses the names of the two petitioners, J.T.Gomez, O.T.Gomez and Irene Gomez as her then surviving legal heirs. The death certificate of J.T.Gomez(Ex.P3) discloses that he died on 17.02.2017. The death certificate of Irene Gomez(Ex.P4) discloses that she died on 03.11.2019. As evidence of ownership of the relevant securities by the deceased, Ex.P6 to Ex.P11 have been placed on record. Paper publication was effected (Ex.P12).

4. Based on the assertions in the petition and the evidence adduced in support thereof, the petitioners are entitled to the relief claimed. Hence, O.P.No.430 of 2022 is allowed by granting a succession certificate to the petitioners in respect of the securities listed in the schedule to the petition.



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Consequently, the petitioners are entitled to collect the securities, receive dividend and interest thereon, and transfer the same.

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Index : Yes / No

Internet : Yes / No

**Petitioner's witness:**

P.W.1 – Miss.Edna Gomez

**Documents exhibited by the petitioners:**

| <i><b>Exhibits</b></i> | <i><b>Documents</b></i>                                                                                                                                                         |
|------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ex.P1                  | Computer generated death certificate of Mr.Oscar Titus Gomez.                                                                                                                   |
| Ex.P2                  | Computer generated death certificate of Gomez.                                                                                                                                  |
| Ex.P3                  | Computer generated death certificate of Justin Titus Gomez.                                                                                                                     |
| Ex.P4                  | Computer generated death certificate of Irene Gomez                                                                                                                             |
| Ex.P5                  | Original Legal Heirship Certificate of Gomez                                                                                                                                    |
| Ex.P6                  | Photocopy of the share certificate bearing certificate No.1618 standing in the name of Oscar Titus Gomez issued by the Stormac India Limited.(Compared with the original)       |
| Ex.P7                  | Photocopy of the share certificate bearing certificate No.013508 standing in the name of Oscar Titus Gomez issued by the Stovec Industries Limited.(Compared with the original) |
| Ex.P8                  | Photocopy of the share certificate bearing certificate No. 5188972 standing in the name of Oscar Titus Gomez issued by                                                          |



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| <b><i>Exhibits</i></b> | <b><i>Documents</i></b>                                                                                                                                                            |
|------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                        | the Hindustan Lever Limited.(Compared with the original).                                                                                                                          |
| Ex.P9                  | Photocopy of the share certificate bearing certificate No. 170717 standing in the name of O.T.Gomez issued by the Nicco Uco Alliance Credit Limited.(Compared with the original)   |
| Ex.P10                 | Photocopy of the share certificate bearing certificate No. 410132 standing in the name of Oscar Titus Gomez issued by the Berger Paints India Limited.(Compared with the original) |
| Ex.P11                 | Photocopy of the letter dated 20.04.2022 addressed to the first petitioner by the C.B. Management Services Private Limited. (Compared with the original).                          |
| Ex.P12                 | Copy of paper publication effected in one issue of Tamil Daily "Dina Kural" dated 29.09.2022.                                                                                      |

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**SENTHILKUMAR RAMAMOORTHY,J**

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