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O.P.No.625 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2023

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No.625 of 2022

1. S.Shivakumar
2. S.Santhanam
3. Sukanya
4. S.Raja @ Somasekar

... Petitioners

Vs.

S.Gayathiri

... Respondent

Original Petition is filed under Section 372 of Indian Succession Act, 1925 r/w. Order XXV Rule 6 of the Madras High Court Original Side Rules, to grant succession certificate in favour of the first petitioner with the power to collect the debts and to receive the interest specified in the schedule hereto.

For Petitioners : Mr.C.Umashankar

ORDER

This 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, seeking issuance of Succession Certificate to the fourth petitioner with power to collect the debts and to receive the interest specified in the schedule hereto.

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



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The scheduled mentioned movable assets is said to be the Employee's Provident Fund payable to one Shankar. The said Shankar died intestate on 25.06.2018 leaving only his brothers and sisters as his Class II legal heirs. Shankar remained unmarried and he did not have any issues of his own. The mother and father of Shankar predeceased him on 08.03.1967 and 17.05.1998 respectively. The petitioners and the respondent as Class II legal heirs of Shankar are entitled to inherit the scheduled mentioned assets equally between themselves. The respondent remained *ex parte* and did not raise any objection for granting succession certificate in favour of the first petitioner.

3. The first petitioner examined himself as P.W.1 and marked Exs.P1 to P8.

4. Exs.P2 and P3 are the death certificates of Shankar and his mother Mohana and Ex.P1 is the death certificate of father of Shankar. Ex.P4 is the family card of Shankar. Ex.P6 is the paper publication effected in one issue of Tamil daily “Makkal Kural” on 08.05.2023. Ex.P7 is the service certificate issued by the company in favour of Shankar.

5. The petitioners 2 to 4 have stated in the petition itself that they do



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no have any objection to grant succession certificate in favour of the first petitioner. However the respondent remained *ex parte*. Since the first petitioner had proved his claim he is entitled to only 4/5th share in the petition mentioned assets. The remaining 1/5th share in the petition mentioned assets shall be retained in the EPF account of the deceased himself until the respondent comes and claims the same at some point of time.

6. Hence:

(a) The petition is **ordered** and

(b) The Succession Certificate shall be issued in favour of the first petitioner in respect of 4/5th share of the petition mentioned asset, with power to collect the debts and to receive the interest specified in the schedule on payment of appropriate succession duty, if it not paid already.

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Witnesses examined:

P.W.1 – S.Shivakumar

Documents marked :

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Photocopy of death certificate of U.V.Sivaramakrishnan
Ex.P2	Computer generated death certificate of Shankar
Ex.P3	Computer generated death certificate of Mohana
Ex.P4	Photocopy of first petitioner's family card
Ex.P5	Photocopy of letter dated 0.02.2022 sent by the Tahsildar, Mylapore Taluk addressed to the first petitioner
Ex.P6	Copy of paper publication dated 08.05.2023
Ex.P7	Photocopy of service certificate dated 24.08.2018

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