



O.P.No. 661 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2023

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No. 661 of 2022

1. Joseph Abraham
2. Cherian Abraham

...

Petitioners

Vs

1. Sajan Verghis Mathew
2. Sally Mathew
3. Sumith Abraham Mathew
4. Sunil Joshua Mathew

...

Respondents

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

For Petitioners : Mr. Vijayan

For Respondents : Mr. K. Kulandaivelu

ORDER

This Petition has been filed under Section 372 of the Indian Succession Act for grant of Succession Certificate to the petitioners in



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respect of securities set out in the schedule of the petition which belonged to one K.V.Mammen. K.V.Mammen remained unmarried and he died intestate on 13.05.1995, leaving behind his three brothers namely K.V.Churian, K.V.Abraham and K.V.Mathew as his legal heirs. The petitioners are the sons of K.V.Abraham, one of the brothers of the deceased K.V.Mammen, who died on 26.07.2014. All other legal heirs have given their consent affidavit in favour of the petitioners. The petitioners being the nephew of the late K.V.Mammen are entitled to get the shares of Late K.V. Mammen and hence, the petitioners have filed this petition to get the Succession Certificate in respect of securities mentioned in the petition.

3. The second petitioner was examined himself as PW.1 and the following documents were marked through him and they are listed as hereunder:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	The photocopy of the Aadhaar card of the 1 st petitioner (compared with the original)
Ex.P2	The photocopy of the 2 nd petitioner's Aadhaar card (compared with the original)
Ex.P3	The photocopy of the PAN card of the 1 st petitioner (compared with the original)
Ex.P4	The photocopy of the 2 nd petitioner's PAN Card (compared with the original)
Ex.P5	The computer generated death certificate of Mr.Mammen. K.V.
Ex.P6	The original Legal Heir Certificate of Mr.K.V.Abraham



<i>Exhibits</i>	<i>Documents</i>
Ex.P7	The computer generated legal heir certificate of Mr.K.V.Mathew.
Ex.P8	The family tree of K.V.Mammen
Ex.P9	The copy of the paper publication effected in one issue in English daily 'DT NEXT' dated 17.05.2023
Ex.P10	The copy of the paper publication effected in one issue in Tamil daily 'INDHU TAMIZH THISAI' dated 31.05.2023

4. The computer generated copy of the Death Certificate of K.V.Mammen is produced as Ex.P5, it is seen that K.V.Mammen died on 13.05.1995. The respondents herein are the legal heirs of K.V.Mathew, and the legal heir certificate of K.V.Mathew dated 12.15.2020 is produced as Ex.P7. Ex.P6 is the original legal heirship certificate of K.V.Abraham and Ex.P8 is the family tree of K.V.Mammen which would show that except the petitioners there are no other legal heirs to late K.V.Mammen. The late K.V.Churian was the only surviving legal heir of late K.V.Mammen, who was unmarried. K.V.Mathew died on 15.11.2019 leaving behind the respondents 1 to 4 herein/ the other surviving legal heirs have given consent affidavit in favour of the petitioners to receive the shares of late K.V.Mammen. Ex.P9 and Ex.P10 are the Paper Publications effected in one issue of English daily in 'DT NEXT' dated 17.05.2023 and one issue of Tamil daily in 'INDHU TAMIZH THISAI' dated 31.05.2023 did not attract



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any objectors.

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5. As the late K.V. Mammen was unmarried and died intestate and the Petitioners being the nephew of the Late K.V. Mammen are entitled to inherit the assets of the deceased. In view of the consent given by the respondents 1 to 4 in favour of the petitioners 1& 2, the prayer sought by the petitioners for grant of Succession Certificate should be granted.

6. Hence:

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

(b) The Succession Certificate shall be issued in favour of the petitioners 1 & 2 with a power to collect the debts with interest and dividends on and negotiate and transfer the securities (shares) specified in the schedule to the petition on payment of appropriate succession duty, if not paid already.

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jrs

Index :Yes/No



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