



O.P.No.52 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2023

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

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1. Ajay Agarwal
2. Sushila Agarwal
3. Pushpa Agarwal
4. Anu Agarwal

... Petitioners

Original Petition filed under Section 372 of the Indian Succession Act, 1925 and Order XXV Rule 6 of the Madras High Court Original Side Rules, to grant succession certificate to the third petitioner with the power to collect the debts and securities and to receive interest and dividends thereon and negotiate and transfer the securities specified in the schedule.

For Petitioners : Mr.S.Raja Ravi Varma

ORDER

This petition is filed under Section 372 of the Indian Succession Act, 1925 and Order XXV Rule 6 of the Madras High Court Original Side Rules, seeking issuance of Succession Certificate to the third petitioner with power to collect the debts and securities and to receive interests, dividends thereon and negotiate and transfer the securities specified in the schedule.

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



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The petition mentioned movable assets were originally belonged to one Gomathi Devi Agarwal who is the paternal grandmother of petitioner 1 and 4 and the mother-in-law of third petitioner and the mother of the second petitioner. The said Gomathi Devi Agarwal died intestate on 10.01.1996 leaving behind her son Kamal Kishore Agarwal and daughter Sushila Agarwal as her legal heirs. Kamal Kishore Agarwal died on 22.05.2020 leaving behind the first 1, 3 and 4th petitioner as his legal heirs. The first petitioner's father and the second petitioner had equal share in the petition mentioned property and due to the demise of the first petitioner's father, the first, third and fourth petitioners who are his legal heirs are entitled to 1/3rd share in the half share of Kamal Kishore Agarwal. Since the petitioners are in need of succession certificate in order to transfer the assets and avail the benefits, they have filed this petition for grant of succession certificate.

3. The first petitioner examined himself as P.W.1 and Exs.P1 to P10 were marked.

4. Ex.P1-death certificate would show that Gomathi Devi Agarwal died on 10.01.1996. From Ex.P2-legal heir certificate, it is learnt that Gomathi Devi Agarwal had two children by name Kamal Kishore Agarwal



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and Sushila Agarwal who are his only legal heirs. Kamal Kishore Agarwal died on 22.05.2020 and Ex.P3 is the death certificate to show the same.

From legal heirship certificate of Kamal Kishore Agarwal which is marked as Ex.P4 it is seen that the petitioners 1, 3 and 4 are his only surviving legal heirs. The petitioners 1, 2 and 4 has given consent to grant succession certificate in favour of the third petitioner.

5. Paper publication issued in one issue of Tamil Daily “Maalai Tamizhagam” did not attract any objectors.

6. Since the deceased died intestate, the petitioners who are the legal heirs have got the right to inherit the petition mentioned assets equally among themselves. However the petitioners 1, 3 and 4 have given consent in favour of the third petitioner for grant of succession certificate. The above documentary evidence produced by third petitioner would prove his entitlement for the grant of Succession Certificate as prayed.

7. Hence:



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

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(b) The Succession Certificate shall be issued in favour of the third petitioner, with power to collect the securities and to receive interest and dividends thereon and negotiate and transfer the securities specified in the petition and schedule on payment of appropriate succession duty, if it not paid already.

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APPENDIX

Petitioner side witness:

P.W.1 – Ajay Agarwal

Documents marked by P.W.1:

<i>Exhibits</i>	<i>Documents</i>
P1	Death certificate of Gomathi Devi Agarwal
P2	Legal heir certificate of Gomathi Devi Agarwal
P3	Death certificate of Kamal Kishore Agarwal
P4	Legal heir certificate of Kamal Kishore Agarwal
P5	Share certificate of State Bank of India held by Gomathi Agarwal
P6	Letter dated 01.09.2022 sent by the third petitioner to Kfin Technologies Pvt. Ltd.
P7	Original reply dated 12.09.2022 addressed to the third petitioner by Kfin Technologies Pvt. Ltd.
P8	Share certificate of Beach-House co-operative Housing Society Limited standing in the name of Gomathi Agarwal
P9	Account statement of Standard Chartered Bank dated 14.04.2016
P10	Paper publication dated 29.03.2023.

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