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O.P.No.434 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2023

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

O.P.No.434 of 2019

1.L.Gopalan (Deceased)
2.Usha Gopalan
3.Anush Gopalan ... Petitioners
(Petitioners 2 and 3 brought on record as LR's of deceased first petitioner
and amended as per order dated 18.08.2021 in A.Nos.2698 to 2700 of 2021
in O.P.No.434 of 2019)

-VS-

1.Mangalam
2.Muthulakshmi ... Respondents

PRAYER: Original Petition filed under Section 372 of Indian Succession Act, 1925 under Order XXV Rule 6 of O.S.Rules, prays that a Succession Certificate may be granted to the second and third petitioners with power to collect the debts and to receive interest mentioned in the Schedule.

(Amended as per order dated 18.08.2021 in A.No.2701 of 2021 in O.P.No.434 of 2019).

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For Petitioners : Mr.P.Wilson Topaz
for M/s.A.S.Kailasam and Associates

ORDER

The petitioners seek the grant of a succession certificate in respect of the debts described in the schedule to the petition.

2. The second and third petitioners assert that the first petitioner's brother, L.Ratnagirishwaran, died intestate on 21.02.2017 as a bachelor. It is further stated that he did not have any children. It is further stated that Thiyaammal, the mother of the first petitioner and the deceased, died on 27.06.1982 and that Mr.S.Lakshminarayanan, the father of the first petitioner and the deceased, died on 03.03.1995. The second and third petitioners assert that the other siblings of the first petitioner and the deceased have been joined as respondents. After the petition was instituted, the first petitioner passed away. Consequently, his legal heirs were joined



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as the second and third petitioners. By asserting that no Will was found in spite of a diligent search, the present petition was filed.

3. In order to establish entitlement to the relief claimed, the petitioners adduced evidence by examining the third petitioner as P.W.1. In course of the examination-in-chief of P.W.1, the 10 documents listed at the foot of this order were exhibited as Exs.P1 to P10. The death certificate of L.Ratnagirishwaran (Ex.P5) discloses that he died on 21.02.2017. His address is also disclosed therein and such address is within the jurisdiction of this Court. The legal heirship certificate in respect of the first petitioner's father (Ex.P1) discloses the names of L.Ratnagirishwaran, L.Gopalan (the first petitioner), L.Venkataraman, Tmt.Mangalam and Tmt.Muthulakshmi. Tmt.Mangalam and Tmt.Muthulakshmi are the respondents herein.

4. As regards Thiru.L.Venkataraman, the petitioner stated that he was not joined as a party to this petition because he was adopted by the first petitioner's grandfather, K.S.Sivarama Iyer. In order to substantiate the said contention, learned counsel has placed on record the Will dated 25.01.1960



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of K.S.Sivarama Iyer and the codicil executed on 13.03.1964 by the said K.S.Sivarama Iyer. In both the Will and the codicil , there are references to L.Venkataraman. In fact, the codicil expressly refers to him as the adopted son of Thiru.K.S.Sivarama Iyer.

5. The petitioner also placed on record the orders passed in M.H.O.P.No.339 of 2003 and M.H.O.P.No.828 of 2003 (Exs.P2 and P3). The order dated 06.08.2003 in M.H.O.P.No.339 of 2003 (Ex.P2) evidences that the first petitioner was appointed as the guardian of the person and property of L.Ratnagirishwaran. The order dated 31.12.2003 in M.H.O.P.No.828 of 2003 (Ex.P3) evidences that the first petitioner was granted permission to sell the 1/5th share of L.Ratnagirishwaran in the property described in the schedule to the said petition. As evidence of title of the deceased to the debts described in the schedule to the petition, Exs.P6 to P9 are placed on record. Paper publication was effected (Ex.P10). In spite of service of notice and paper publication being effected, the respondents did not contest the petition.



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6. Based on the assertions in the petition and the evidence recorded in support thereof, the petitioners are entitled to the relief claimed.

7. Accordingly, O.P.No.434 of 2019 is allowed by directing that a succession certificate be issued to the second and third petitioners in respect of the debts described in the schedule to the petition. Consequently, the second and third petitioners shall be entitled to collect the debts, receive interest and dividends thereon, and negotiate and transfer the same.

16.02.2023

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Index : Yes / No

Internet : Yes / No

Petitioner's witness:

P.W.1 - Mr.Anush Gopalan

Documents exhibited by the petitioners:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Photocopy of the Legal Heirship certificate of Mr.S.Lakshmi Narayanan.
Ex.P2	Photocopy of the Order passed in M.H.O.P.No.339 of 2003 on 06.08.2003 by the Principal Judge, City Civil Court at Chennai.



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<i>Exhibits</i>	<i>Documents</i>
Ex.P3	Photocopy of the Order passed in M.H.O.P.No.828 of 2003 on 31.12.2003 by the Principal Judge, City Civil Court at Chennai.
Ex.P4	Photocopy of the Order passed in C.M.P.No.914 of 2004 in M.H.O.P.No.828 of 2003 on 29.06.2004 by the Principal Judge, City Civil Court at Chennai.
Ex.P5	Computer generated death certificate of L.Ratnagirishwaran.
Ex.P6	Photocopy of the letter dated 17.05.2018 issued by the Tamil Nadu Power Finance & Infrastructure Development Corporation Limited.
Ex.P7	Photocopy of the statement in respect of the accounts of Mr.L.Rathinagirishwaran dated 11.04.2018 issued by the Senior Manager, Ashok Nagar Branch, Union Bank of India.
Ex.P8	Photocopy of the statement of accounts for the Open Term Deposit account standing in the name of Mr.L.Rathinagiriswaran bearing customer ID No.106503719 dated 10.05.2018.
Ex.P9	Photocopy of the letter dated 15.05.2018 issued by the Assistant General Manager, Indian Overseas Bank, Adyar Branch in respect of the term deposit standing in the name of Mr.L.Rathnagirishwaran.
Ex.P10	Copy of paper publication effected in one issue of Tamil daily "Makkal Kural" dated 04.10.2022.



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SENTHILKUMAR RAMAMOORTHY,J

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