



O.P.No.518 of 2020

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WEB CO **N.SATHISH KUMAR, J.**

This Petition has been filed under Section 372 of the Indian Succession Act read with Order XXV Rule 6 of the Madras High Court Original Side Rules, to grant succession certificate in favour of the petitioner.

2. It is the case of the petitioner that the deceased/K.Pushpalatha is her daughter, who was doing business as a Kerosene Dealer and also holding a license. She died on 05.10.2019 leaving behind the petitioner as a sole legal heir. Hence, being the mother, she is entitled to succession certificate. The respondent disputes the relationship between the petitioner and the deceased. According to him, the deceased is neither a natural daughter nor adopted one to the petitioner. Except they lived together and included in family ration card as her daughter, no other relationship between them. It is the case of the respondent that he is the husband of the deceased. Hence, it is the contention that deceased has nominated the respondent indicating that he is her husband. The legal heir certificate has been



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obtained by the petitioner suppressing the above facts. Even the hospital record shows that at the time of her death, the petitioner has stated that the respondent is her husband. Hence, disputed the legal heirship.

3. On the side of the petitioner, the petitioner herself was examined as P.W.1 and marked Exs.P1 to P.15. On the side of the respondent, the respondent himself was examined as R.W.1 and marked Exs.R1 to R10.

4. The learned counsel for the petitioner would submit that the petitioner is the mother of the deceased, the deceased has no children except the petitioner and there is no surviving legal heirs. Hence, the petitioner/mother of the deceased being the Class-I legal heir is entitled to succession certificate. The documents filed on the side of the petitioner clearly establishes the petitioner's case, whereas, the respondent would submit that the respondent is the husband of the deceased, however, no documents filed in this regard establishes her stand.



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5. In the light of the above submissions and pleadings, now the points

arises for consideration in this Original Petition are as follows:-

a. Whether the petitioner is the only sole legal heir of the deceased Pushpalatha?

b. Whether the marriage between the respondent and Pushpalatha has been established as per law?

c. To what other relief, the parties are entitled to?

Points 1, 2 & 3

6. P.W.1 in her evidence has asserted that the deceased is born to her and he has no legal heir. P.W.2 also supported the case of the petitioner that the deceased was born at Alapuzha to the petitioner. The evidence of the PW1 and PW2 clearly prove the fact that the deceased Pushpalatha is born to the PW1/petitioner. The death certificate of the Pushpalatha is filed as Ex.P1, Ex.P2 is the legal heir certificate issued by the authorities in favour of the petitioner, wherein, the same would indicate that the mother alone is the legal heir of the deceased Pushpalatha. Ex.P3 is the letter addressed to the petitioner, which would also prove the fact that Pushpalatha's father name is Mr.Krishnamurthy, the husband of the petitioner. The copy of the



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bank passbook also proves the fact she was residing with the petitioner in the same address. The settlement deed executed by the father of the deceased indicates that Pushpalatha referred to as Mrs, however, there is no indication whatsoever in the settlement that the respondent is husband of the said Pushpalatha.

7. Though Ex.R1 is filed to show the dealership agreement entered into between the deceased Pushpalatha and Hindustan Petroleum Corporation Limited, the same will not prove the marriage status of the respondent and the Pushpalatha. Ex.R2 is the communication sent by the Civil Supplies filed to show that there are reference that the respondent is the husband of the Pushpalatha. The Accident Register is filed to show that the deceased was brought to the hospital by the respondent, however, the same will also not help the respondent to prove the relationship with the Pushpalatha as the husband. The death certificate is also filed to show that the respondent is the husband of the deceased, but the fact remains that these document though prove the fact that the Pushpalatha is having some live-in relationship with the respondent, the valid marriage between the



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Pushpalatha is not established by the respondent.

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8. Even in the counter, it is not stated that when he was married the said Pushpalatha, whereas, in his evidence, in the cross examination he had clearly admitted that the Pushpalatha was residing with the petitioner and her husband Mr.Krishnamoorthy. Further, his evidences also clearly shows that the respondent is already married and having three children and his wife is also living. He also admitted that Pushpalatha had died issue less. His evidence clearly indicate that there are some living relationship between the parties. Therefore, such relationship will not elevate the status of the husband and wife particularly when the respondent's first wife was alive and had three children. Mere maintaining living relationship with the Pushpalatha, the same will not give a status of husband and wife to claim succession rights. Therefore, when the marriage has not been established and even assuming that they had some live-in relationship, such relationship will not make a valid marriage, particularly, when the first wife of the respondent is very much alive. Therefore, mere plea on the basis of some relationship with the deceased, the respondent cannot claim the status as



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Class-I legal heir of the deceased Pushpalatha to claim shares in the estate left by the deceased.

9. Such view of the matter, the mother/petitioner has established the case that she is the Class-I legal heir of the deceased not only by the evidences of P.W.1 and P.W.2, but also by way of documents. Hence, the petitioner being the legal heir of the daughter, the property of the female Hindu shall devolve as per Sections 15 and 16 of the Hindu Succession Act, 1956.

10. Accordingly, in the absence of any other legal heir, the petitioner being the mother of the deceased Pushpalatha is certainly entitled to succession of the estates of the deceased. Therefore, the petition is ordered as prayed for and a direction for grant of Succession Certificate in favour of the petitioner with power to collect and to receive deposit specified in the schedule together with interest as applicable till the date of withdrawal, is issued.

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