



OP NO. 70 of 2006



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **06-03-2025**

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THE HONOURABLE MR JUSTICE K.KUMARESH BABU

OP NO. 70 of 2006

AND

OP NO. 122 OF 2008

1.S.Shakila
2.S.Harikumar

Petitioner(s)

2nd petitioner declared major by order dated 01.11.2012 in A.No.4775 of 2012 & 1st petitioner discharged from guardianship of minor by order dated 01.11.2012 in A.No.4775 of 2012 and times extended by order dated 20.11.20212.

Vs

Narasammal Respondent(s)

(Amended as per order in A.No.4125 of 2012 dated 18.09.2012)

PRAYER: Original Petition filed for Succession Certificate under Section 372 of the Indian Succession Act, 1925 read with under Order XXV Rule 6 of Original Side Rules, prays to grant a Succession Certificate in favour of the petitioners with power to collect the amount of Debts, with empower to collect the 50% of the said amount payable to the first petitioner, from the Accounts Officer, Death-cum-Retirement benefits and pension Section Southern Railways, Joint Office, Perambur, Chennai-600023 as more fully mentioned in the schedule hereunder.

OP NO. 122 of 2008

1.S.Narashamma @ Sakila
2.G.Samboonnammal



Petiti



Vs

1.Koteeswari

2.S.Sakila

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3.The Deputy Chief Materials Manager,
GSD, Per, Southern Railway,
Ayanavaram, Chennai – 23.

Respondent(s)

PRAYER: Original Petition filed for Succession Certificate under Sections, 371, 372 & 373 of the Indian Succession Act, 1925 read with under Order XXV Rule 6 of Original Side Rules, prays to grant a Succession Certificate in favour of the petitioners which are described in the schedule hereunder thereby enabling the petitioners to withdraw the amount from the third respondent, direct the respondents 1 and 2 to pay the cost of this petition and pass such other order.

OP NO. 70 of 2006

For Petitioner(s):

P1-s.Shakila

P2-s.Harikumar

Both Residing At No.21/47 Baker Street, Cholai, Chennai 600 112
(by Order Dated 28/2/2025)

For Respondent(s):

M/s.G.R.Ravichandran

For R1 & R2

Filed On 23/03/2006

Memo Filed D.No.4882 Dt:15/02/2022



Memo Filed D.No.27109 Dt:23/09/2022

OP NO. 122 of 2008

For Petitioner(s):

M/s.K.Balaraman Naidu
For Petitioner
Mr.G.R.Ravichandran
For Petitioner-d.No.47414/2010
Vak Retd On 08/12/2010
M/s.G.K.SekarG.VedamurthyFor R1R-2 S.Sakila, Tirutani

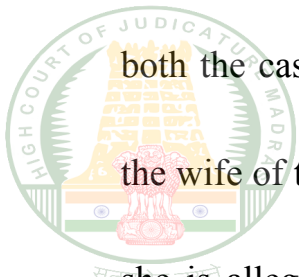
For Respondent(s):

M/s.P.T.Ram Kumar
Standing Counsel (Railways)
Filed Vak for R3 in D.No.27929/2022 on 29.09.2022

COMMON ORDER

The petitioners in O.P.No.70 of 2006 seek Succession Certificate in respect of the securities held by Late K.G.Srinivasan, who died intestate on 12.08.2005. The petitioners are the wife and son of the deceased. The respondents are the maid and mother of the deceased. The petitioners in O.P.No.122 of 2008 seek Succession Certificate in respect of the securities held by Late K.G.Srinivasan, who died intestate on 12.08.2005. The petitioners are the wife and mother of the deceased. The respondents are the first wife and stranger to the deceased. During the pending litigation, the mother of the deceased died on 10.04.2011.

2. Since in both the cases claim is for Succession Certificate of one deceased K.G.Srinivasan,



both the cases are clubbed together. The first petitioner in O.P.No.70 of 2006, be the wife of the deceased who arrayed as the second respondent in O.P.No.122 of 2008, where she is alleged as stranger to the deceased. Likewise, the first respondent in O.P.No.70 of 2006, is alleged to be the maid of the deceased is the first petitioner in O.P.No.122 of 2008, claiming herself to be the wife of the deceased.

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3.The first petitioner in O.P.No.70 of 2006, who is also the second respondent in Tr.O.P.No.122 of 2008, had examined herself as PW-1. Even though she had not listed out any documents in her original petition, she had placed on record and had filed four documents along with her petition, however in her Chief Examination, she had not marked any of the documents. Even when she had deposed evidence before the learned Master on 21.06.2006 or again when she was examined in chief after tagging of both the Original Petitions on 23.09.2014, she had not marked any document. However, during the cross examination, the document which was sought to be relied upon by PW-1, which was shown as Ex.P1, which is the marriage invitation, in cross of her, she had not assailed the suggestions made by the learned counsel for the respondent in the said Original Petition before this Court to hold that the said marriage invitation was infact a valid invitation.



first

4. On the contrary RW-1, who is the first petitioner in Tr.O.P.No.122 of 2008,

respondent in O.P.No.70 of 2006 had marked various documents including the marriage

certificate of herself and the deceased as Ex.R2, the nomination form submitted by the

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deceased to his employer as Ex.R3; the legal heir certificate as Ex.R5 and a decree of the

Sub-Court, Tiruvallur in O.P.No.221 of 1982 as Ex.R8, which relates to the decree of divorce

between the deceased and the first respondent in Tr.O.P.No.122 of 2008.

5. The second respondent in Tr.O.P.No.122 of 2008, had entered into the box as RW2 and she

had also not exhibited any documents. RW2 had denied Ex.R8, the decree of divorce. She

had also in her evidence not substantiated that her marriage with the deceased was subsisting.

It is now brought on record that RW2, is also no more.

6. It is to be noted that from the evidence of RW-1, she had substantiated the marriage

between herself and the deceased under Ex.R.2, which also indicates that RW-1 had married

the deceased in the year 1985. Ex.R.3 also indicates that a nomination had been made by the

deceased in his service records nominating RW.1 for receiving the Death-cum-Retirement

Gratuity in which he had also indicated RW.1 to be his wife. Ex.R.5, the legal heirship



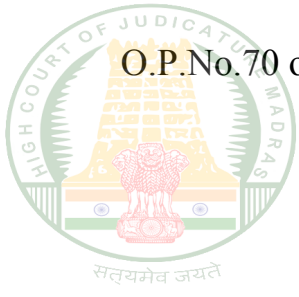
certificate of the deceased would also indicate that the petitioners in Tr.O.P.No. 122 of 2008 are the legal heirs of the deceased. Further Ex.R.8 even though denied by the RW.2 being the certified copy of a decree, dated 27.10.1984 exemplifies, the divorce between the deceased and the RW.2.

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7. In such view of the matter, this Court is inclined to hold that the first petitioner in Tr.O.P.No.122 of 2008 is entitled for a grant of succession certificate in her favour in respect of the schedule listed securities in the said Original Petition.

8. Even though the petitioner in O.P.No.70 of 2006, had been called absent, it is to be noted that she had abandoned the proceedings, as she had taken back the bundle from the respective counsels she had engaged and has also not cross examined either RW-1 or RW-2. Since this Court had come to a conclusion on merits that the first petitioner in Tr.O.P.No.122 of 2008 is entitled for succession certificate, the Original Petition in O.P.No.70 of 2006, is liable to be dismissed.

9. In fine, Transfer O.P.No.122 of 2008 is allowed on the terms indicated above and



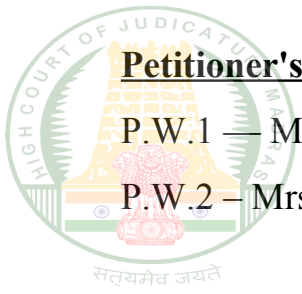
O.P.No.70 of 2006 stands dismissed. However, there shall be no order as to cost.



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06-03-2025

To
The Deputy Chief Materials Manager
Gsd. Per. Southern Railway, Ayanavaram, Chennai 23.



Petitioner's witnesses:

P.W.1 — Mrs.S.Shakila

P.W.2 — Mrs. Kumudha

Respondent's witnesses:

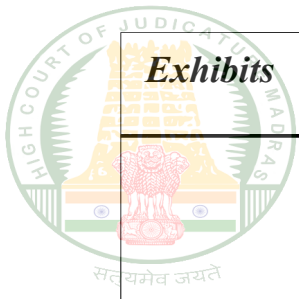
R.W.1 — Mrs.Narashamma @ Sakila

R.W.2 — Mrs.Kotteswari

Documents exhibited by the petitioner:- NIL

Documents exhibited by the Respondents:-

<i>Exhibits</i>	<i>Documents</i>
Ex.R1	(Ex.R1 was already marked through P.W.1 during cross examination in O.P.No.70 of 2006)
Ex.R2	Original of the True Extract of Hindu Marriage Register kept by the Marriage Registrar Office, Avadi, in respect of the Marriage registered in serial No.121 of 2004.
Ex.R3	Photocopy of the nomination form submitted by K.G.Srinivasan to his employer (Witness says that the original form was submitted to the employer.
Ex.R4	Original death certificate of RW.1's husband K.G.Srinivasan who died on 12.08.2005
Ex.R5	Photocopy of the legal heirship



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<i>Exhibits</i>	<i>Documents</i>
	certificate in respect of RW.1 deceased husband K.G.Srinivasan (witness says that the original legal heirship certificate has been misplaced).
Ex.R6	Photocopy of the R.W.1's family card bearing No.04/G/0105039 (marked after comparing and verifying with the original).
Ex.R7	Original free pass given to R.W1's husband K.G.Srinivasan by the southern Railways.
Ex.R8	Original certified copy of the decree, dated 27.10.1984 passed in O.P.No.221 of 1982 by the Subordinate Court, Thiruvallur.
Ex.R9	Original letter dated 19.12.2005 addressed to R.W1 by the southern railways.
Ex.R10	Original death certificate of R.W1 mother-in-law Sampoorammal, who died on 10.04.2011.

06.03.2025

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