



O.P.No.759 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON 23.07.2025	PRONOUNCED ON 26.08.2025
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THE HONOURABLE **MR.JUSTICE K.KUMARESH BABU**
O.P.No.759 of 2016

1.Mrs.Shanthi
2.Mrs.Revathi
3.Mr.Balaji

... Petitioners
Vs.

Sugumari

... Respondent

PRAYER: Original Petition filed under Section 372 of the Indian Succession Act 1925 read with Order XXV Rule 6 of Original Side Rules praying to grant a Succession Certificate in favour of the petitioners with power to collect the debts to receive interest specified in the schedule hereunder.

For Petitioner : Dr.G.Krishnamurthy

For Respondent : Mr.M.Boopathy



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ORDER

WEB COPY The petitioners seek a Succession Certificate in respect of the debts held by Late T. Kathiresan, who died intestate on 22.08.2015. The first petitioner is the wife, and petitioners 2 and 3 are the children of the deceased. The second respondent is the alleged second wife of the deceased.

2. It is the case of the petitioners that the first petitioner was legally wedded to the deceased, and they begot two children, who are petitioners 2 and 3 herein. The deceased, who worked as a Chief Pharmacist, deliberately and without any just cause, deserted the matrimonial home and thereafter led an immoral life with the respondent. The first petitioner filed a maintenance case in M.C.No.528 of 2004 before the II Additional Family Court, Chennai, seeking Rs.10,000/- per month. The court allowed the petition and ordered the deceased to pay maintenance. The present petition is filed seeking the issuance of a Succession Certificate in respect of the monetary benefits of the deceased. Though the certificate was initially granted in favour of the petitioners, it was set aside remanded by a Division Bench of this Court for fresh consideration.

3. Heard Dr. G. Krishnamurthy, learned counsel for the petitioners,



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and Mr. M. Boopathy, learned counsel for the respondent.

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4. The learned counsel for the petitioners submits that the first petitioner was examined as PW1. She produced the death certificate of the deceased (Ex.P1) and the legal heirship certificate (Ex.P2). A perusal of Ex.P2 reveals that the deceased left behind the first petitioner and the petitioners 2 and 3 as his surviving legal heirs. To substantiate the marriage between the deceased and the first petitioner, the marriage invitation card (Ex.P3) and a photocopy of the family card (Ex.P4), showing the petitioners and the deceased as members of the same family, were filed. Paper publication dated 27.02.2018 was also effected (Ex.P10), and no objections were received. Based on the pleadings and evidence, the Succession Certificate was granted ex parte on 02.11.2018, since the respondent failed to participate in the proceedings despite service of notice.

5. The learned counsel further submits that the respondent subsequently filed an application in A.No.2336 of 2022 to revoke the Succession Certificate, claiming that notice was not properly served at her correct address. However, the application was dismissed on 19.01.2023, with a finding that the address mentioned in all documents, except her

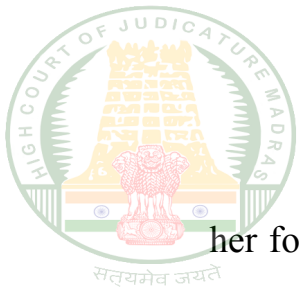


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Aadhaar, matched the cause title, and the grant was not vitiated on that account. The respondent preferred an appeal in O.S.A.No.62 of 2023, wherein a Division Bench of this Court remanded the matter for fresh consideration.

6. The learned counsel also submits that the respondent filed A.No.6543 of 2024, seeking to admit the marriage certificate of the respondent and the deceased. The said application was dismissed on 06.01.2025 on the ground that the alleged marriage is void, as it was solemnized during the subsistence of the deceased's first marriage. Consequently, the certificate was also held to be void. The respondent's further application in A.No.6544 of 2024, seeking to examine the second petitioner to substantiate her marriage with the deceased, was also dismissed, holding that there was no legal necessity to prove the second marriage and the core issue was whether the respondent was a nominee entitled to receive benefits.

7. He further submits that the marriage of the respondent who is married to the deceased during the existence of the first marriage, itself is void as per the Hindu Marriage Act. He further contends that the claims of



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her for the monetary benefits of the deceased based on the void marriage is unsustainable in law. Hence, he submits that the succession right to the shares of the debts cannot be granted in favour of the respondent and further he submits that the petitioners alone are the surviving legal heirs of the deceased and prays to grant succession certificate in favour of the petitioners.

8. Countering the arguments of the learned counsel for the petitioner, Mr. M.Boopathy, the learned counsel for the respondent submits that the respondent was examined as RW1. The respondent relies on the photocopies of her Voter ID and Aadhaar card (Ex.R11 and Ex.R14), which show the deceased as her husband. She also produced a family card (Ex.R12) showing the deceased, respondent, and second petitioner as family members. The LIC policy documents (Ex.R16 and Ex.R17) list the respondent as nominee. He relied on the judgment of the Hon'ble Supreme Court in *Badshah v. Sou. Urmila Badshah Godse & Anr.*, which held that, for the purpose of maintenance, a woman in a void marriage may be treated as a legally wedded wife. She also relied on a non-reportable judgment in *Tulsa Devi Nicola v. Radha Nicola*, to contend that family pension is not part of the deceased's estate. Furthermore, relying on *Gaddam Ruth*



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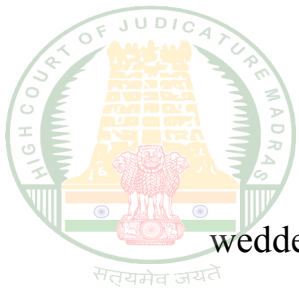
Victoria v. State of Andhra Pradesh [2023 SCC Online AP 1690], she

submitted that a succession certificate can be granted to a second wife. He prayed for issuance of the certificate in favour of both the petitioners and the respondent.

9. Answering to the submissions of the learned counsel for the respondent, the learned counsel for the petitioner submits that all the judgments relied by the respondent are not applicable for to substantiate the claim of the respondent. He further submits that in those judgments recognised the right of second wife that to get the succession certificate only to the extent of her children right over the deceased father and not for herself. Hence, he prayed this court to not rely upon the judgments presented by the respondent since, they are not apt for the present facts of the case.

10. This Court has considered the submissions of the learned counsel for both parties and perused the materials available on record.

11. Upon considering the pleadings, oral and documentary evidence, and rival submissions, it is evident that the first petitioner was the legally



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wedded wife of the deceased, T. Kathiresan, as substantiated by Ex.P3 (marriage invitation), Ex.P4 (family card), and Ex.P2 (legal heirship certificate). Petitioners 2 and 3 are their legitimate children. The respondent's claim to be the wife of the deceased stands negated by the dismissal of her application seeking to admit the marriage certificate, with a clear finding that her alleged marriage is void, as it was solemnized during the subsistence of the deceased's lawful marriage. Her subsequent application to examine the second petitioner to substantiate the alleged second marriage was also dismissed, with a finding that there was no legal necessity to prove such void marriage for adjudicating the present issue.

12. While the respondent has produced documents such as the voter ID and family card (Ex.R11 and Ex.R12), and is named as nominee in certain LIC policies (Ex.R16 and Ex.R17), it is well settled that nomination does not confer succession rights over the estate of the deceased. The judgment relied upon by the respondent in *Badshah v. Urmila Badshah Godse* pertains to maintenance rights under Section 125 CrPC and cannot be extended to claims under succession law. Likewise, her reliance on judgment of *Tulsa Devi Nicola v. Radha Nicola* and on *Gaddam Ruth Victoria v. State of Andhra Pradesh* [2023 SCC Online AP 1690] is



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misplaced, as that judgment recognized succession rights in favour of the children born from a second marriage, not the second wife herself. Hence, these judgments cannot substantiate the claim of the respondent.

13. In light of the above, this Court finds that the petitioners, being the lawful heirs of the deceased, are entitled to the Succession Certificate in respect of his monetary benefits.

14. In view of the above evidence, the Original Petition is allowed granting Succession Certificate in favour of the petitioners, with the power to collect the debts and receive the interest and dividends mentioned in the schedule to the petition.

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Index :Yes/No

Speaking order: Yes/ No

Neutral Citations: Yes/ No

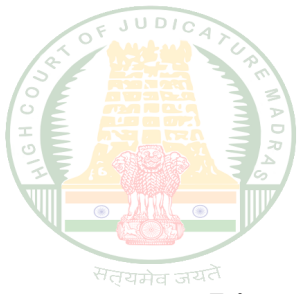


List of witnesses examined on the side of the petitioner:

PW1- Mrs.K.Shanthi

List of documents marked on the side of the petitioner:

ExP1	Computer generated death certificate of Mr.T.Kathiresan
ExP2	Photocopy of the legal heir certificate of Mr.T.Kathiresan
ExP3	Photocopy of PW-1's marriage invitation card with her husband T.Kathiresan dated 15.12.1985 (Compared with the original)
ExP4	Photocopy of PW-1's family card for the period 1998-2003 in respect of her deceased husband T.Kathiresan (witness states that the original was submitted to the concerned authority. This document is marked subject to its admissibility, proof and relevancy)
ExP5	Photocopy of the Identity Card dated 09.09.1995 in respect of PW-1's husband T.Kathiresan (Compared with the original)
ExP6	Photocopy of the order dated 16.05.2005 in M.C.No.528/2004 given by Family Court, Chennai (Compared with the original)
ExP7	Photocopy of the letter sent by PW-1 to Regional Administrative Medical Officer (ESI), Chennai-2 with regard to terminal benefits of PW-1's deceased husband
ExP8	Photocopy of the reply notice from Chief Medical Officer, Chennai-12 addressed to PW-1 dated 29.09.2015 (Compared with the original)
ExP9	Copy of legal notice dated 02.09.2015 sent by PW-1 to the Superior Officers of the deceased Mr.T.Kathiresan
Ex.P10	Copy of the paper publication effected in one issue of Tamil Daily "Maalai Sudar" dated 27.02.2018
Ex.P11	Photocopy of PW-1's Aadhaar Card (Compared with the original)
Ex.P12	Certificate under Section 65B of the Indian Evidence Act, 1872



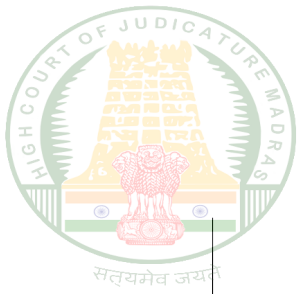
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List of witnesses examined on the side of the Respondent:

RW1- Mrs.K.Sukumari

List of documents marked on the side of the Respondent:

ExR1	Photocopy of ID card of Mr.T.Kathiresan issued by Employees State Insurance Dispensary, Govt of Tamil Nadu (Compared with the original)
ExR2	Photocopy of the medical certificate mentioning the cause of death of Mr.T.Kathiresan issued by Health Department, Chennai Corporation, (Witness states that the original of the said document is submitted to Corporation of Chennai for obtaining the death certificate)
ExR3	Copy of the letter dated 29.09.2015 from Chief Medical Officer, ESI Dispensary I, Perambur, Chennai 600 012 address to RW-1 asking her to obtain succession certificate. (Witness states that she received the said document as original, This document is marked subject to its proof and relevancy and admissibility)
ExR4	RW-1's original representation, dated 24.12.2016 address to Chief Medical Officer, ESI Dispensary I Perambur, Chennai 600 012 requesting the terminal benefits of RW-1's husband Mr.T.Karthiresan along with original postal receipt.
ExR5	RW-1's original representation dated 02.01.2017 address to the employer of RW-1's husband office of the DMS Complex, Teynampet, Chennai 600 006 requesting the terminal benefits of RW-1's husband Mr.T.Kathiresan along with original postal receipt.
ExR6	RW-1's original representation, dated 02.01.2017 address to the Regional Medical Administrative Officer, Perambur High Road, Mettupalayam, Chennai 600 012 requesting the terminal benefits of RW-1's husband Mr.T.Karthiresan along with original postal receipt.
ExR7	RW-1's original representation dated 02.01.2017 address to the Chief Medical Officer, ESI Dispensary-I, ESI Hospital,

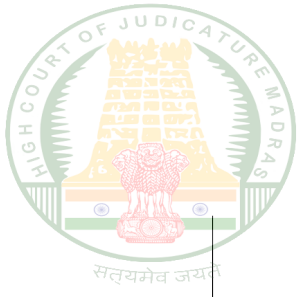


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	Perambur High Road, Chennai 600 012 requesting the terminal benefits of RW-1's husband Mr.T.Kathiresan along with original postal receipt.
Ex.R8	Copy of letter dated 06.07.2017 received from ESI Dispensary, Perambur, Chennai 600 012 addressed to RW-1 asking for succession certificate. (Witness states that she received the said document as original, this document is marked subject to its proof and relevancy and admissibility)
Ex.R9	Photocopy of insurance card of Mr.T.Kathiresan issued by Govt of Tamilnadu (Compared with the original)
Ex.R10	Photocopy of Voter ID Card of Mr.Kathiresan (Compared with the original)
Ex.R11	Photocopy of RW-1's Voter ID Card (Compared with the original)
Ex.R12	Photocopy of the family card for the period 2005-09 of Mr.Kathiresan (Witness states that original of the said document has been misplaced and a place complaint has been lodged for the same)
Ex.R13	Original CSR receipt dated 29.03.2022 given by SSI of Police, New Washermenpet for the complaint given by RW-1 in respect of lost of original family card (i.e., Ex.R12)
Ex.R14	Photocopy of RW-1;s Aadhar card (Compared with the original)
Ex.R15	Photocopy of RW-1's family card (compared with the original)
Ex.R16	Photocopy of the LIC policy bearing No.718870884 standing in the name of Mr.T.Kathiresan (Witness states that the original of the said document had been submitted to LIC on maturity of the claim. This document is marked subject to its proof, relevancy and admissibility)
Ex.R17	Photocopy of the LIC policy bearing No.719465504 standing in the name of Mr.T.Kathiresan (Witness states that the original of the said document had been submitted to LIC on maturity of the claim. This document is marked subject to its proof, relevancy and admissibility)
Ex.R18	Original legal notice dated 21.05.2019 sent by RW-1's counsel



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	to the employer of RW-1's husband Mr.T.Kathiresan along with original acknowledgment card.
Ex.R19	Original returned envelop from the 1 st petitioner with endorsement as no such person in this address.
Ex.R20	Original returned envelop from the 3 rd petitioner with endorsement as no such person in this address
Ex.R21	Photocopy of the information dated 25.08.2015 furnished in the death report of Mr.T.Kathiresan issued by Health Department, Chennai Corporation. (Witness states that the original of the said document had been submitted to Chennai Corporation for obtaining death certificate. This document is marked subject to its proof, relevancy and admissibility)

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Pre-Delivery Order in
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