



Appl.No.64 of 2025 in I.P.No.25 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 26.08.2025

Pronounced on : 16.09.2025

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

AND

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

Appl.No.64 of 2025

in

I.P.No.25 of 2014

The Ram Jethmalani Foundation,
Represented by its Honorary Secretary
Mr. Saurabh Ajay Gupta
F-23, First Floor,
Hauz Khas Enclave,
New Delhi – 110 016

... Applicant

Vs

The Official Assignee,
High Court, Madras.

... Respondent

This Application is filed under Order II Rule 1 of Insolvency Rules read with Section 86 of PTI Act and Order XIV Rule 8 of the Original Side Rules, praying to give effect to the express



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declaration made by learned Senior Advocate Late Shri.Ram Jethmalani in the Claim Petition No.433 of 2014 in I.P.No.25 of 2014 supported by his Codicil dated 02.08.2019 and grant the claim in favour of the applicant foundation, ordering payment of dividend to the applicant foundation.

For Applicant : Mr.V.Raghavachari,
Senior Counsel
For Ms.P.Jayalakshmi

For Respondent : Mr.K.V.AnanthaKrushnan,
Assisted by Ms.A.Janani

ORDER

This Application has been filed by the Ram Jethmalani Foundation represented by its Honorary Secretary, Mr.Saurabh Ajay Gupta, seeking a direction that this Court should give effect to the declaration made by learned Senior Advocate Late Ram Jethmalani in Claim Petition No.433 of 2014 in I.P.No.25 of 2014 supported by his Codicil dated 02.08.2019 and grant the claim in favour of the applicant foundation directing payment of dividend to the applicant foundation.



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2.In the affidavit filed in support of the Judges Summons, it had been contended by the deponent of the affidavit, the Honorary Secretary to the Ram Jethmalani Foundation, that the Ram Jethmalani Foundation had been registered as a Charitable Trust on 08.03.2007 and he has been serving as an Honorary Secretary since the date of inception. It had been further stated that late Senior Advocate, Ram Jethmalani had invested some money with the insolvent, Mr.S.Arjunlal Sundardass. By order dated 21.04.2014 in I.P.No.25 of 2014, Mr.Arjunlal Sundardass had been adjudicated as an insolvent. The Official Assignee had taken charge of the estate of the insolvent and had received the claim petitions filed by the creditors. It had been contended that Ram Jethmalani had filed his claim in Claim Petition No.433 of 2014. It had been further stated that in the said claim petition, he had made an express declaration that should his money be recovered after his death, the same should vest with the applicant Foundation.

3.It had also been stated that Ram Jethmalani had also executed a registered Will dated 17.11.2017 and also



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subsequently a Codicil dated 02.08.2019, wherein he had specifically stated that he had filed a claim petition in I.P.No.25 of 2014 for a total claim of Rs.6,48,21,567/- and whenever that amount is recovered it stood bequeathed to the Ram Jethmalani Foundation. It had been further stated that therefore, this Court should permit payment of the dividend payable to Ram Jethmalani in favour of the trust in accordance with his intention and last wish. It was under those circumstances that this application has been filed.

4.The Official Assignee has filed a counter report wherein, he had stated that quite apart from Ram Jethmalani who had filed Claim Petition No.433 of 2014 his family members including his son Janak Jeth Malani, grandson Kail Jethmalani and daughter-in-law Monica Jeth Malani / Monica Bijlani had also filed claim petitions before the Official Assignee. It had been contended that the Official Assignee as Administrator of the estate of the insolvent has a right to examine the entitlement of the Foundation to claim the investment made by Ram Jethmalani with the insolvent.



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5.It had been stated that Ram Jethmalani had filed a claim petition for a sum of Rs.4,95,00,000/- on 21.11.2014 and had signed in each page. The claim had been admitted by the Official Assignee and allowed to the claim petition for a sum of Rs.3,24,00,000/- at the dividend of 70% which had been declared in pari passu with all other creditors by an order dated 14.08.2023.

6.It had been further stated that during the lifetime of Ram Jethmalani, it had not been informed to the Official Assignee that he had dedicated the debt amount due from the estate to any individual. He died on 08.09.2019. The Death Certificate and Legal Heirship Certificate had not been produced. It had been further stated that Ram Jethmalani is said to have executed a registered Will dated 17.11.2017 and a Codicil dated 02.08.2019 bequeathing the amount to the Ram Jethmalani Foundation. It had however been stated that he left behind Class-I legal heirs to succeed to his estate namely, Janak Jeth Malani (deceased), Kail Jethmalani, Monica Jeth Malani and Monica Bijlani. It had been stated that the relatives of Ram Jethmalani, who also filed claim



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petitions, had however, not appeared before the Official Assignee and therefore, those petitions have been dismissed for default.

7.It had been further contended that, it had not been informed whether the Will dated 17.11.2017 and the Codicil dated 02.08.2019 were probated. It had been contended that the Will and the Codicil should be probated and proved in manner known to law and further the Class-I legal heirs must also endorse no objection and must grant consent. It had been further stated that in the absence of the probate of the Will and of the Codicil, the legal heirs alone would be entitled to claim the dividend declared on the amount advanced by Ram Jethmalani to the insolvent.

8.It had been further stated that Ram Jethmalani had filed a sworn statement dated 27.02.2019, but which does not contain his signature in each page. This sworn statement was handed over through an Advocate on 16.03.2019 even prior to the death of Ram Jethmalani. It had been further stated that the Official



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Assignee holds a statutory post should be protected from any claim made later by any of the Class-I legal heirs owing to the disbursement of the dividend. It had therefore been stated that the relief sought should be rejected by this Court.

9.Heard arguments advanced by Mr.V.Raghavachari, learned Senior Counsel for the applicant and Mr.K.V.Ananthakrushnan, learned counsel for the respondent.

10.Mr.V.Raghavachari, learned Senior Counsel for the applicant, pointed out that the facts that Mr.Ram Jethmalani, Senior Advocate, had advanced some money to the insolvent, and that consequent to the adjudication order dated 21.04.2014, Ram Jethmalani had filed Claim Petition No.433 of 2014 for a sum of Rs.4,95,00,000/-, cannot be either denied or disputed. He further pointed out that the Official Assignee had admitted the claim and allowed it for a sum of Rs.3,24,00,000/- at 70% dividend as declared by order dated 14.08.2023.



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11.The learned Senior Counsel pointed out that Ram Jethmalani had executed a registered Will dated 17.11.2017 and also a Codicil dated 02.08.2019 and that in the Codicil, he had very categorically stated that he had filed a claim petition in I.P.No.25 of 2014 for a sum of Rs.6,48,21,567/- and that when this amount or any part of the same is recovered, he bequeaths the same to the Ram Jethmalani Foundation. The learned Senior Counsel stated that the issue therefore is to pay the dividend declared to the Foundation. In this connection, he further pointed that the Co-trustees of the foundation had also given No Objection Certificate.

12.The learned Senior Counsel placed reliance on the judgment of the Hon'ble Supreme Court reported in **(2020) 14 SCC 102, Kanta Yadav v. Om Prakash Yadav and others**, wherein it had been held that Section 57 of the Indian Succession Act, 1925 would apply only to properties situated within the erstwhile presidencies of Calcutta, Madras and Bombay and if the properties are situated outside or the Will had been executed outside those Presidency Towns, it was not necessary to seek Probate or Letters of Administration.



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13.The learned Senior Counsel further pointed out that Ram Jethmalani had also forwarded a sworn statement giving details of the amounts paid to Arjunlal Sunderdass, the insolvent and the amounts received from the insolvent. He had also stated that he had made his son Janak Jeth Malani as his legal representative in the claim petition, but unfortunately, Janak Jeth Malani died and therefore, he wishes to give the money as donation to a registered charitable trust / the Ram Jethmalani Foundation. The learned Senior Counsel therefore contended that an order should be passed directing payment of the dividend amount in accordance with the order of the Official Assignee and payable to the Ram Jethmalani Foundation.

14.Mr.K.V.Ananthakrushnan, learned counsel for the Official Assignee very fairly admitted that the Official Assignee had received the claim petition for a sum of Rs.4,95,00,000/- and had allowed the claim petition at 70% dividend to a sum of Rs.3,24,00,000/-. The only apprehension raised by Mr.K.V.Ananthakrushnan is that there are other Class-I legal heirs for Ram Jethmalani and if ever any of them raise any



objection later on, then the sanctity of the office of the Official Assignee would be called in question. The learned counsel stated that no objection should be obtained from the Class-I legal heirs and that the office of the Official Assignee should be sufficiently protected from any claim made by any third party for having declared the dividend at 70% and for paying the same to the Ram Jethmalani Foundation and not to any of his legal heirs. It was under those circumstances, that he sought rejection of this application.

15.We have carefully considered the arguments advanced and perused the material.

16.The fact that Ram Jethmalani, Senior Advocate, had financial transactions with Arjunlal Sunderdass cannot be denied or disputed. Monies had flowed from both ends from and to each other. Consequent to the adjudication as insolvent of Arjunlal Sunderdass by order dated 21.11.2014, the properties of the insolvent had vested with the Official Assignee. The creditors had filed claim petitions and similarly Ram Jethmalani had filed



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Claim Petition No.433 of 2014 for a sum of Rs.5,00,00,000/-. It is also seen that his son Janak Jeth Malani had filed five separate claim petitions bearing Claim Nos.435 of 2014, 436 of 2014, 434 of 2014, 309 of 2015 and 358 of 2015. Similarly, Kail Jethmalani, grandson of Ram Jethmalani, son of Janak Jeth Malani had also filed Claim Petition No.359 of 2015. The daughter-in-law of Ram Jethmalani / Monica Jeth Malani and Monica Bijlani had filed Claim Petition Nos.360 & 362 of 2015 respectively. Even though notices had been sent to the aforementioned claimants they had taken a conscious decision not to appear before the Official Assignee and therefore, their claim petitions had been rejected for non-prosecution.

17.However, even before the Will and the Codicil are given any stamp of approval, it would only be appropriate that the Class-I legal heirs of Ram Jethmalani give no objection for the dividend which had been declared by order dated 14.08.2023. It would only be appropriate that the dividend is handed over to the Foundation in the presence of the Class-I legal heirs or atleast to the knowledge of all the legal heirs.

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19.The learned Senior Counsel on behalf of the applicant had stated that the applicant would provide security bond to protect the office of the Official Assignee. But however, a more direct method would be to get no objection from the Class-I legal heirs of Ram Jethmalani. They have caveatable interests in his estate and with respect to every amount which is vested with his estate.

20.We are not able to understand the reluctance shown by the applicant in forwarding no objections from the Class-I legal heirs of Ram Jethmalani. Seeking probate of a Will is different to

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calling for proof of the Will. Moreover when apprehensions and suspicions are raised it is incumbent on the propounder to prove the Will in manner known to law. It is also required that Class-I legal heirs are made aware of the contents of the Will, particularly that they have not been given any share in the dividend declared by the Official Assignee from the amount paid by the Ram Jethmalani to the insolvent.

21.The learned Senior Counsel for the applicant stated that the executor named on the Will had given consent and that the said consent would be sufficient. But however, the Court should also hear those who stand to be disinherited under the Will and those who have caveatable interest. It is not known why the Class-I legal heirs are screened away by the applicant. It is seen that individually also the Class-I legal heirs have filed claim petitions, but had taken a conscious decision not to appear before the Official Assignee and therefore, their claim petitions had been dismissed for default.



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22.The learned Senior Counsel for the applicant placed reliance on Section 85 of the Presidency – Towns Insolvency Act, 1909 relating to the discretionary power of the Official Assignee with respect to administration of the property of the insolvent and in the distribution thereof amongst the creditors. Section 85(4) of the Act provides that the Official Assignee shall use his own discretion in the management of the estate and its distribution among the creditors.

23.The learned counsel for the Official Assignee stated that the Official Assignee had exercised discretion to call for proof of the Will and for consent affidavits / no objections to be provided by the Class-I legal heirs. When exercise of such discretion appears to be judicious, it may not be proper on the part of this Court to interfere with the same or pass any contradictory directions.

24.The entire issue therefore is shrouded with opaqueness. It is seen that none of the Class-I legal heirs had come forward to substantiate the claim petitions filed by them and the



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applicant herein exhibits strong reluctance to obtain No Objection Certificate or consent affidavits from them. The Official Assignee is well within his right to seek no objection from the Class-I legal heirs before forwarding the amount due and payable under Claim Petition No.433 of 2014 in the name of the Ram Jethmalani to the person / entity lawfully entitled to receive the same.

25.We had given out anxious consideration to the sworn statement of Ram Jethmalani. But however, the said statement had not been signed in each page. We are of the opinion that it should have been. It is not known why the eminent jurist had failed to sign the sworn statement in each page as is required since every sentence in that statement has to be authenticated which could be implied only by affixing the signature at the foot of each page. The Codicil wherein there is mention about the claim petition and that the amount declared as dividend stands bequeathed to the Ram Jethmalani Foundation had also not been registered. The Ram Jethmalani Foundation, as on date consists of two trustees alone while the Trust Deed provides that there must be atleast three trustees.



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(G.J.J) (C.V.K.J)

16.09.2025

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Index: Yes/No
Internet: Yes/No
Speaking order: Yes/No



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DR. G.JAYACHANDRAN,J.
and
C.V.KARTHIKEYAN,J.
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Pre-delivery order in
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