IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-04-2026

CORAM

THE HON'BLE DR.JUSTICE A.D.MARIA CLETE

A No. 2301 of 2025
in
O.P. No. 37 of 2023

Neelakshi B.Patel @ Neelakshi
D/o.Shantilal M Shah and Late Deena S.Shah @
Deena Shantilal Shah, 26/10, Vandana Apts. No.206,
II Floor, Haddows Road, Nugambakkam, Chennai -
600 006.

..Applicant(s)

Vs

1. Divyesh S.Shah @ Shah Divyesh Shantilal
S/o.Shantilal and Late Mrs.Deena S.Shah @
Deena Shantilal Shah, Both residing at No.30/3,
Green Avenue, Flowers Road, Kilpauk, Chennai -
600 010.
2. Chetan S. Shah @ Shah Chetan Kumar Shantilal
S/o.Shantilal M.Shah and Late Deena S.Shah @
Deena Shantilal Shah, No.30/3, Green Avenue,
Flowers Road, Kilpauk, Chennai - 600 010.

..Respondent(s)

To revoke the order passed by this Honble Court on 02/02/2024 in O.P.No.37 of 2023 granting succession certificate to the 1st Respondent in respect of securities specified in the schedule.

For Applicant(s): M/s.D.Baskar
E.Ashok Kumar
K.B.Rohith
Pooja J

For Respondent(s): Ms.A.Madhumathi for R1.
Mr.N.P.R.Ayyanar for R2.

ORDER

This application, has been filed by the applicant / 2nd respondent in the original petition to revoke the order dated 02.02.2024 passed in O.P.No.37 of 2023, by which succession certificate was directed to be issued in favour of the 2nd petitioner therein, namely Divyesh S. Shah, in respect of the securities left by late Deena S. Shah @ Deena Shantilal Shah.

2. The relevant background may first be noticed. O.P.No.37 of 2023 was filed under Section 372 of the Indian Succession Act, 1925 for grant of succession certificate in respect of certain securities of late Deena S. Shah @ Deena Shantilal Shah, who admittedly died intestate on 19.09.2016 at Chennai. In the original petition, the legal heirs of the deceased were specifically shown as:

(i) husband Shantilal M. Shah @ Shantilal,
(ii) son Chetan S. Shah,
(iii) son Divyesh S. Shah, and
(iv) daughter Neelakshi B. Patel @ Neelakshi. The petition also stated that all of them, being Class-I heirs, were entitled in law to equal shares in the estate of the deceased.

3. The securities disclosed in the original petition consisted of 500 equity shares of Bharat Rasayan Limited held in physical form and 624 equity shares of Sundaram Fasteners Limited held in physical form. Schedule A to the petition valued the total holding at Rs.49,99,200/-. However, the petition, after the death of the 1st petitioner, proceeded on the footing of Schedule B, namely 3/4th share in Schedule A, valued at Rs.37,96,200/-, and sought succession certificate in favour of Divyesh S. Shah alone.

4. The contemporaneous documents show why succession certificate was sought. The petitioner side had written on 29.12.2018 to the Registrar and Share Transfer Agent of Bharat Rasayan informing the death of Deena Shah and seeking transfer procedure. By reply dated 16.03.2019, Link Intime India Pvt. Ltd. informed that since the market value of the subject shares exceeded Rs.2 lakhs and the shares stood in the sole name of the deceased without nomination, transmission would require production of a certified copy of a Will / succession certificate / letters of administration, as applicable.

5. The original petition was initially presented on 10.06.2022 by Shantilal M. Shah and Divyesh S. Shah. Before numbering, Shantilal M. Shah, the husband of the deceased and the 1st petitioner in the original petition, died on 21.06.2022.

Thereafter, the 2nd petitioner moved A.No.5805 of 2022 in O.P.D.No.59156 of 2022 and obtained an order on 19.12.2022 permitting acceptance of the altered schedule on the basis that he claimed 3/4th share in the assets described in the schedule. That fact is specifically recited in the proof affidavit of Divyesh and in the later order.

6. In support of the original petition, the 1st respondent / original 2nd petitioner Divyesh S. Shah filed proof affidavit and was examined as P.W.1 before the learned Master on 30.01.2024. In that evidence, the death certificate of Deena Shah, legal heir certificate, Aadhaar card, five Bharat Rasayan share certificates, two Sundaram Fasteners share certificates, the 29.12.2018 letter, the 16.03.2019 Link Intime reply, and paper publication were marked as Exs.P1 to P8. The deposition also records that the 1st respondent Chetan S. Shah had filed consent affidavit.

7. Equally material is the fact that the present applicant / 2nd respondent Neelakshi had already filed a counter in the original petition on 03.10.2023. In that counter, she specifically contended that after the death of Shantilal M. Shah on 21.06.2022, his share could not simply be added to the claim of Divyesh; that on the death of the husband intestate, his share would devolve equally on his

surviving legal heirs; that the cause title and share schedule required amendment; and that the grant of succession certificate for 3/4th share in favour of Divyesh alone was not acceptable. Though the counter also contains several wider allegations regarding jewels and other immovable properties, its central legal objection was that the succession to the share of Shantilal M. Shah had not been correctly worked out in the original petition.

8. By order dated 02.02.2024 in O.P.No.37 of 2023, this Court allowed the original petition. The order records that Deena S. Shah died intestate on 19.09.2016, leaving behind the 2nd petitioner and the respondents as Class-I heirs, that the 1st petitioner / father had died on 21.06.2022, and thereafter concluded that the 2nd petitioner had succeeded the estate of the deceased Late Shantilal M. Shah @ Shantilal and on that basis directed issuance of succession certificate to the 2nd petitioner with power to collect the securities and negotiate and transfer them.

9. The present application has thereafter been filed by Neelakshi/2nd respondent seeking revocation of that order.

10. Heard the counsels and considered the materials on record.

11. The first point that requires emphasis is the true nature of a proceeding under Section 372 of the Indian Succession Act. A succession certificate proceeding is summary in character. It is not intended for final adjudication of disputed title in the broad sense. At the same time, even in a summary proceeding, the Court cannot issue a succession certificate on a premise that is demonstrably inconsistent with the admitted line of succession. Where the error goes to the very basis on which the quantum of entitlement is reckoned, the Court is not powerless to correct it.

12. In the present case, the foundational facts are not in dispute. Deena S. Shah died intestate on 19.09.2016. At that time, her heirs were her husband Shantilal, her two sons Chetan and Divyesh, and her daughter Neelakshi. The original petition itself states that all such heirs are entitled to equal share under Hindu law. Therefore, on the death of Deena, the estate in the securities devolved equally on those four heirs.

13. The next admitted event is that Shantilal M. Shah died on 21.06.2022, after signing the original petition but before numbering. There is no material anywhere on record to show that he left a Will in respect of his share in these securities. There is also no deed of release by the applicant Neelakshi in favour of Divyesh. The only consent available is that of Chetan S. Shah, who merely gave consent for

issuance of succession certificate in favour of Divyesh. That consent could, at the highest, operate only as his own no-objection. It could not enlarge Divyesh's legal share at the cost of another heir who had objected.

14. On the death of Shantilal intestate, his own share in the securities inherited from Deena could only devolve on his legal heirs in accordance with law. On the admitted pedigree, those heirs are the three surviving children, namely Chetan, Divyesh, and Neelakshi. Therefore, the share of Shantilal could not have been treated as if it vested wholly in Divyesh merely because the father and brother had given no-objection for issuance of certificate in his favour.

15. The objection now raised on behalf of the 1st respondent that the applicant ought to have pursued only an appeal under Section 384 of the Act does not persuade this Court to non-suit the applicant in the facts of this case. No doubt, an appeal is one remedy. But where the very order is shown to have been made on an erroneous premise contrary to the admitted legal heirship already on record, and where the applicant was a party to the original proceeding and had already raised that objection in her counter, this Court retains jurisdiction to revoke or modify its own order so as to prevent perpetuation of an obvious error.

16. This Court is also unable to accept the contention that the application must fail because some steps have already been taken on the strength of the certificate. The records shows that Sundaram Fasteners Limited transmitted the shares on 24.06.2024 in favour of Divyesh, and that Link Intime, while dealing with Bharat Rasayan, advised the applicant to seek amendment or modification from this Court if she disputed the distribution. A subsequent transmission effected on the strength of a certificate cannot validate an order that was erroneous at its inception. The parties will necessarily have to work out the consequences of this order with the concerned companies / registrars in accordance with law.

17. At the same time, this Court is of the view that the entire order in O.P.No.37 of 2023 need not be wiped out in the sense of driving parties back to the starting point on the factum of death, legal heirship, and existence of securities. Those facts stand established by the petition, the proof affidavit, the exhibits, and even the counter. The real defect is only in the manner in which the share of the deceased husband Shantilal was wrongly added to the entitlement of Divyesh alone.

18. In such circumstances, the proper course is to recall the operative portion of the order dated 02.02.2024 insofar as it directed issuance of succession certificate exclusively in favour of Divyesh S. Shah on the footing of a 3/4th share, and to

direct that the succession certificate, if issued, must reflect the correct legal position.

19. On the admitted succession, the estate of Deena S. Shah initially devolved equally on four heirs, namely Shantilal, Chetan, Divyesh, and Neelakshi. After the death of Shantilal, his 1/4th share further devolved equally on the three surviving children. Consequently, each of the three surviving children becomes entitled to his or her original 1/4th share plus 1/12th share out of the father’s quarter, that is, 1/3rd share each in the whole. Therefore, for the securities covered by O.P.No.37 of 2023, namely the entire holding valued in the original petition at Rs.49,99,200/-, the correct beneficial entitlement, on the admitted materials, is 1/3rd each to Chetan S. Shah, Divyesh S. Shah, and Neelakshi B. Patel.

20. This Court is conscious that a succession certificate is often issued in favour of one or more persons for collection, without deciding final inter se title in all respects. But in the present case, since the original order itself was founded on the erroneous assumption of 3/4th share in favour of one heir, the certificate cannot be allowed to stand in that form. It must either be reissued jointly or be suitably modified so as not to prejudice the shares of the applicant.

21. In the result this application for revocation of the succession certificate is allowed. The first respondent is directed to surrender the succession certificate issued by this Court dated 02.02.2024 in O.P. No.37 of 2023. In the event the said succession certificate is not available with the first respondent, he shall file an affidavit explaining its non-availability. On such surrender (or upon filing of such affidavit), the Registry shall issue a fresh succession certificate in respect of the securities described in the schedule, authorising the second petitioner and the respondents in O.P. No.37 of 2023 to receive the amounts in equal shares, each being entitled to 1/3 share.

22. The Registry is directed to take consequential steps for issuance of modified succession certificate in relation to the entire securities described in Schedule A to the original petition, reflecting the above entitlement, in accordance with office procedure and on compliance with all requisite formalities.

23. If any certificate has already been drawn up exclusively in favour of Divyesh S. Shah, the same shall stand superseded by the modified certificate to be issued pursuant to this order.

24. It is made clear that this order is confined to the securities that formed the subject matter of O.P.No.37 of 2023 and does not decide any broader dispute, if any, between the parties regarding other movable or immovable properties of the parents. All such issues are left open.

25. In the facts and circumstances, there shall be no order as to costs.

15-04-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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DR.A.D.MARIA CLETE, J.

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