

IN THE COURT OF SUB JUDGE, AVINASHI

Present: Tmt.R.Arulmozhiselvi, M.L.,
Sub Judge, Avinashi

Friday the 11th day of January 2019

Thiruvalluvar Andu 2049, Sri Vilambi Varudam, the 27th day of Margazhi

S.O.P.No.01/2017

1. Prabhu
2. Santhi
3. Vijayaraghavan

..... Petitioners

/Vs/

E.Balasubramanian

..... Respondent

This petition was taken on file on 27.06.2017 and coming on 11.12.2018 for final hearing before me and in the presence of Thiru.G.Sasikumar, for the petitioners and Thiru.S.Devarajan, Advocate for the respondent, respondent remained exparte after filing counter and upon perusing the petition, and connected material papers and on hearing the arguments adduced by the learned for the plaintiff and having stood over for consideration of this court till today, this court delivered the following

ORDER

This petition is filed U/s.372 of the Indian Succession Act 1925 seeking to grant a Succession Certificate to recover the decree amount passed in Os.No.127/2005.

2) The brief content of the petition is as follows:

The petitioners content that the petitioners 1 and 3 are brothers, 2nd petitioner is sister of the petitioners 1 and 3. All of them sons and daughters of Thangavel and Ambujam respectively. The petitioner's father died long back in the year 1971. The petitioners content that the respondent borrowed the amount from the petitioner's mother Ambujam and failed to repay the same and hence the said Ambujam filed the suit

OS.No.127/2005 against the respondent before the District Munsif of Perundurai and obtained the decree on 24.02.2006. Subsequently the said Ambujam died intestate on 8.11.2011 leaving behind her legal heirs the petitioners herein and as such as a legal heirs of Ambujam the petitioners succeeded to all the assets left behind by their mother Ambujam including right to recover the decree amount passed in OS.127/2005 against the respondent. As the legal heirs the petitioners are entitled to recover the amount from the respondent as per decree. Hence this petition.

3) The brief contents of the Counter filed by the respondent is as follows:-

The respondent content that the petition is false, frivolous and is not admissible both in law and on facts of the case. The respondent content that the present application is highly belated one. The petitioners are not entitled to the amount from this respondent as there is no liability on his part. The petitioners have no locus stadi to file this application and this court has no jurisdiction to entertain the suit. Hence this respondent prays for dismissal of the petition.

4) Respondent filed vakalat and counter statement and then the respondent remained exparte. On the side of the petitioner PW1 was examined and the Ex.A1 to Ex.A4 were marked and no evidence on the side of the respondent.

5) Point for consideration: The petitioner has come to this court seeking Succession Certificate in favour of the petitioners, to realize the decree amount passed in OS.No.127/2006 on the file of District Munsif of Perundurai infavour of their mother Ambujam and against the respondent. To establish their case the 3rd petitioner was examined as PW1 and documents Ex.P1 to Ex.P4 were marked. PW1 has deposed that the respondent borrowed the amount from their mother Ambujam and failed to repay the same and hence their mother Ambujam filed the suit OS.No.127/2005 against the respondent before the District Munsif of Perundurai and obtained the decree on 24.02.2006. Subsequently their mother Ambujam died intestate on 8.11.2011 leaving

behind the petitioners alone as the legal heirs and the petitioners succeeded to all the assets left behind by their mother Ambujam including the right to recover the decree amount passed in OS.No.127/2005 against the respondent. The death certificate of Ambujam is marked as Ex.P1, Legal heirship certificate of Ambujam is marked as Ex.P2, Death certificate of Thangavel is marked as Ex.P3 and Judgment in OS.127/2005 on the file of the District Munsif, Perundurai is marked as Ex.P4.

6) On due perused of Ex.P1 to Ex.P4 along with the oral evidence of PW1 clearly establishes that the suit was decreed infavour of the petitioner's mother and the decree amount due against the respondent and the same remains unpaid. And as per Ex.P1 shows that the petitioner's mother died and as per Ex.P2 legal heirship certificate the petitioners alone as the legal heirs of the deceased Ambujam and hence he petitioners are entitled to the decree amount due to their mother Ambujam as the legal heirs of the deceased Ambujam. There is contra evidence before this court to disprove the claim of the petitioner. Hence the joint reading of the oral evidence of PW1 along with the documentary evidence Ex.P1 to Ex.P4, this court conclude that the petitioners are entitled for the decree amount passed in OS.No.127/2005. Hence this court holds the point in favour of the petitioners.

7) In the result, this petition is allowed ;

(i) The Succession Certificate is ordered to be issued in favour of the petitioners 1 to 3 to realize the decree amount due to their mother Ambujam, passed in OS.No.127/2005 on the file of the District Munsif, Perundurai

ii) Considering the facts of the case the petitioners are directed to bear their own cost.

Typed by me directly in my laptop and after carrying out corrections where

ever necessary and after taking print out and pronounced by me in the open court on the 11th day of January 2019.

Sd/-R.Arulmozhiselvi,
Sub Judge,
Avinashi.

Petitioner's side Witness:-

PW1 T.Vijayaraghavan

Petitioner's side documents:-

Ex.P1	16.11.2011	Death certificate of Ambujam (True copy)
Ex.P2	04.01.2011	Legal heir certificate of Ambujam (True copy)
Ex.P3	15.06.2017	Death certificate of Thangavel (Original)
Ex.P4	24.02.2006	Decree passed in OS.No.127/2005 on the file of District Munsif Cum Judicial Magistrate, Perundurai. (Certified copy)

Respondent's side witness and documents: -- Nil --

Sd/-R.Arulmozhiselvi,
Sub Judge,
Avinashi.

(Compared with original order and uploaded in CIS by Steno)

Draft / Fair Order
SOP.No.1/2017
Dated : 11.01.2019