



**IN THE COURT OF THE X ADDL. CITY CIVIL & SESSIONS
JUDGE, BANGALORE (CCH-26)**

Dated this the 1st day of February, 2024

Present

Smt. **SAVITRI SHIVAPUTRA KUJJI**, B.Com., LL.B.(Spl.),
X Addl. City Civil & Sessions Judge,
Bangalore.

P & Sc.No.555/2023

Petitioners:

- 1) Smt. Reshma Begum.I
W/o Late Hussain Peer,
Aged about 37 years,
- 2) Sadath H.,
S/o Late Hussain Peer,
Aged about 16 years,
- 3) Syed H.,
S/o Late Hussain Peer,
Aged about 11 years,

All are residing at No.005,
3rd Cross, Ganigara Street,
Chinnu Singh Building,
Kadugodi, Bengaluru-560 067.

Petitioner Nos.2 and 3 being minors
represented by petitioner No.1 who is
mother and natural guardian.

(By Sri. Shankarappa G.B. Adv.)

v/s

Respondent:

Nil

ORDER

This petition is filed by the petitioners U/S 372 of the Indian Succession Act seeking for issue of Succession Certificate with respect to the schedule mentioned pension amount.

2. The brief facts leading to the petitioners' case are summarized as under:-

That the petitioner No.1 is said to be the legally wedded wife and petitioner Nos.2 & 3 are the children of late Hussain Peer S.F. who was said to be an employee in the BBMP Transport Corporation working as a driver. He said to have died while he was in service on 13.12.2020 and after his death, the petitioners obtained his death certificate. The BMTC authorities said to have issued a letter containing the details of the facilities payable to the family members on 15.06.1992 and as per Serial No.5 for pension to produce Succession Certificate obtained from the appropriate Court. Therefore, as per the suggestion of the said authority, the petitioners said to have filed the present petition seeking for issue of Succession Certificate. It is stated that the petitioner No.1 after the death of her husband, has not remarried any person and it is further stated that the mother of the deceased Smt.Shakila Bi also said to have died on 16.08.2017. Thus it is urged that the petitioners being the sole legal heirs of deceased Hussain Peer, they are entitled to get the pensionary benefits of the deceased. It is further stated that no objections have been filed by any other persons for seeking the Succession Certificate with respect to the schedule benefits and therefore they have sought for issue of the said certificate as prayed for in the petition.

3. After registration of the petition, a public notice came to be issued through paper publication calling upon objections if any from anybody, but inspite of public notice nobody has appeared in this case to challenge the claim of the petitioners.

4. To substantiate the claim of the petitioners, petitioner No.1 has deposed before the Court as P.W.1 and she has relied on 9 documents marked from Ex.P.1 to Ex.P.9.

5. The counsel for the petitioners submitted written and oral arguments.

6. On hearing and on perusal of the relevant materials, available evidence and written arguments on record, the following points arise for consideration of this Court:-

1) Whether the petitioners prove that they, being the Class-I heirs of deceased Hussain Peer, are entitled to succeed to his estate as mentioned in the petition schedule?

2) If so, whether they are entitled to seek the petition relief?

3) What order?

7. Finding of this Court on the above points are as follows:-

1) In the affirmative;

2) In the affirmative:

3) As per final order, for the following:-

REASONS

8. **Point Nos.1 & 2:-** Since both these points are interconnected, they are tried together to avoid repetition of facts. It is the specific claim of the petitioner No.1, who is the wife and petitioner No.2 and 3 who are minor children of late Hussain Peer in the present petition that the husband of the plaintiff No.1 Husain Peer was working as a driver in BMTC and he died while in service on 13.12.2020. According to their claim, when the petitioner No.1 had applied for issue of his death certificate, the concerned employer i.e., BMTC issued a letter containing the details of the facilities which the legal heirs of the deceased employee are entitled to and instructed the petitioners to obtain necessary succession certificate to get the pensionary benefits of the deceased as detailed in the schedule of the petition. According to their further claim, since there are no other rival claimants to claim this monetary benefit, the petitioners being the sole legal heirs of deceased Hussain Peer, they are entitled to succeed to the said pensionary benefits for which they are required to obtain necessary succession certificate in this regard. To controvert or dispute this claim of the petitioners, admittedly we have no objections from anybody as, nobody has appeared in this case despite issuance of notice by paper publication.

9. To substantiate the petitioners' claim, the petitioner No.1 by deposing herself before the Court as P.W.1, has produced 9 documents of which Ex.P.1 is the Aadhar card of P.W.1, Ex.P.2 & 3 are the copies of Aadhar cards of petitioner Nos.2 & 3. As regards Ex.P.4 & 5, they are the study certificates of petitioner Nos.2 & 3 respectively. The family tree of their family is produced by way of

affidavit of P.W.1 as per Ex.P.6 and the details of the same are reflected in the family tree issued by the Tahasildar which is produced as per Ex.P.8. Further, Ex.P.7 is the death extract of the husband of P.W.1. Ex.P.9 is the office order of BMTC dated 15.06.2022 under which the concerned employer of the deceased has furnished the details of the facilities to which the legal heirs of the deceased employee are entitled. These documents have also remained unchallenged in this case.

10. The relationship of P.W.1 and petitioner Nos.2 & 3 with the deceased is proved from Ex.P.1 to 6 and 8 documents showing the status of P.W.1 as his wife and that of petitioner Nos.2 & 3 as his minor children. Again this relationship of the petitioners with the deceased has not been objected to by anybody in this case since nobody has appeared to oppose their claim. Therefore the material fact that the petitioner Nos.1 to 3 are the natural legal heirs of the deceased stands proved. Under the present petition, the petitioners have sought for issue of Succession Certificate in order to claim the pensionary benefits of deceased Hussain Peer and the fact that he was working in BMTC as driver is evident from Ex.P.9- office order which has also remained uncontroverted in this case.

11. Under this Ex.P.9 document, the concerned employer has furnished the details of the deceased regarding his working as a driver in their department, the fact of his holding the Provident Fund and other benefits which once again indicates that the petition schedule monetary benefits were held by the deceased during his lifetime. The fact of his death is also evident from Ex.P.7- death extract. Even this fact is reiterated by the employer in Ex.P.9. Therefore from these material documents and the uncontroverted

claim of the petitioners it could squarely be held that the petitioners are the rightful persons to claim this monetary benefit of the deceased. Since there has been no rival claim over this monetary benefits from anybody as against the claim of the petitioners, this Court finds no reason to discard the claim of the petitioners. Since it is the monetary benefit claimed by the petitioners, they are certainly required to obtain necessary Succession Certificate as required u/s 372 of the Act and therefore rightly they have approached this Court. Therefore considering the facts and circumstances of the case, it could be said that it is a fit case where this Court can grant the petition relief as prayed for. Accordingly both these points are answered in favour of the petitioners in the affirmative.

12. **Point No.3:-** In the light of the findings given on the above points, the Court hereby proceeds to pass the following:-

ORDER

The petition filed by the petitioners under Section 372 of the Indian Succession Act is hereby allowed.

The petitioners are hereby held entitled to obtain Succession Certificate with respect to the schedule mentioned pensionary benefits.

The Office is directed to issue Succession Certificate in the name of petitioners by collecting the requisite fee and stamp duty with respect to schedule pensionary benefits standing in the name of the deceased-Mr.Hussain Peer.

No order as to cost.

(Dictated to the Stenographer Grade-I, transcribed by him on Computer, carried out corrections, print out taken and then pronounced in the Open Court on this the **1st day of February, 2024**)

(SAVITRI SHIVAPUTTA KUJJI)
X Addl. City Civil & Sessions Judge,
Bangalore.

ANNEXURE**List of witnesses examined for the petitioners:**

PW.1 : Reshma Begum I

List of documents exhibited for petitioners:

Ex.P1 to 3 : Notarized copies of Aadhar Cards of PW1,
petitioner No.2 & 3

Ex.P4 & 5 : Study certificates of petitioner No.2 & 3

Ex.P6 : Family tree by way of affidavit

Ex.P7 : Death certificate of husband of PW1

Ex.P8 : Notarized copy of family tree issued by Tahasildar

List of witnesses examined and documents got exhibited for respondent:-

Nil

X Addl. City Civil & Sessions Judge,
Bangalore.