

**IN THE COURT OF THE PRL CIVIL JUDGE & J.M.F.C.
MANGALURU, D.K.**

**PRESENT: Smt.Prathibha D.S., B.A., L.L.B.,
Prl. Civil Judge & JMFC.,
Mangaluru.**

Dated on this 16th day of December, 2022

P & S.C. No.63/2022

**(In the matter of Return of Capital of
deceased Smt. Yamuna)**

Between:

1.Udaya,
S/o Late. Yamuna
Aged about 47 years

2. Rajesh,
S/o Late. Yamuna
Aged about 58 years
R/at D.No.2-157/2,
Kotekar, Mangaluru.

3. Vimala
D/o Late. Yamuna
Aged about 57 years
R/at D.No.12-402,
Mitha Bailu, Bantwal.

4. Pushpa Jagadish
D/o Late. Yamuna
Aged about 55 years
R/at D.No.12-142/A13B,
Jodumarga Post, Bantwal.

5. Poornima
D/o Late. Yamuna
Aged about 52 years
R/at D.No.3-304/2
Kotekar, Mangaluru.

6. Santhosh
S/o Late Yamuna
Aged about 50 years
Petitioner No.1 and 6 are
R/at D.No.3-7/2, Patel
Compound, Maroli, Mangaluru.

...Petitioners

(By Adv:Smt.Veena Rani B)

-Vs-

Nil

....Respondent

ORDER

This petition is filed seeking Succession Certificate in respect of assets and ROC Benefits left behind by one late. Yamuna. She died on 14.02.2019 at Mangaluru. The petitioners being the legal heirs, entitled to receive the petition appended benefits. As such, when petitioners had approached the authority concerned seeking withdrawal of the same in their favour, the authority sought for succession certificate from the competent Civil Court. Hence, this petition is preferred seeking issuance of Succession Certificate in respect of the ROC benefits and it's proceeds in favour of the petitioner No.1 for himself and on behalf of petitioner Nos.2 to 5.

2. As there are no respondents in this petition, publication of the notice of this petition has been made in Kannada daily newspaper (Kannada Prabha dated 22.10.2022) having wide circulation. None of the opponents/or any other interested party/s have appeared and contested this petition.

Accordingly, treating that there are no interested persons, this court proceeded further in this case.

3. In order to substantiate their case, the petitioner No.1 deposed as PW1 as well got marked in total documents as Ex.P1 to Ex.P11. As there are no respondents or any opponents to this petition, cross examination of PW.1 has been treated as nil.

4. Heard arguments of the learned counsel for the petitioners. Perused the entire materials placed on hand.

5. Points that arise for my consideration are as under:

1. *Whether the petitioners have made out sufficient grounds to grant Succession Certificate as sought for?*
2. *What order?*

6. On perusal of the records, on consideration of both oral and documentary evidence placed before this Court, I proceed to answer the above points as under:

*Point No.1: **In the Affirmative.***

Point No.2: As per final order for the following:

REASONS

7. **Point No.1:** To substantiate the claim made in the petition, petitioner No.1 having got examined himself as PW.1 got marked documents at Ex.P1 to Ex.P11. Ex.P.1 is the Death Certificate of Yamuna, Ex.P2 is the Death Certificate of

Thimmappa, Ex.P3 is the letter issued by the EPFO dated 23.02.2022. Ex.P4 is the Survival Certificate, Ex.P5 is the Notarized Copy of Aadhar Card of PW.1, Ex.P6 is the Notarized Copy of Aadhar Card of Petitioner No.2, Ex.P7 is the Notarized Copy of Aadhar Card of Petitioner No.3, Ex.P8 is the Notarized Copy of Aadhar Card of Petitioner No.4, Ex.P9 is the Notarized Copy of Aadhar Card of Petitioner No.5, Ex.P10 is the Notarized Copy of Aadhar Card of Petitioner No.6, Ex.P11 is the Kannada Prabha Kannada Daily Newspaper dated 22.10.2022 and Ex.P11(a) is the Portion of Publication. From the averments made in the petition and in the affidavit it becomes clear that, the petitioners are only sole surviving legal heirs of the deceased Yamuna.

8. PW.1 has deposed in consonance with the averments made in the petition. The document at Ex.P1 substantiate the fact of death of Yamuna, Ex.P4 would substantiate the fact that, the petitioners are only surviving legal heirs of deceased Thimmappa and Yamuna, Ex.P3 would substantiate the fact that the deceased had ROC benefits as mentioned in the schedule appended to this petition. Since there is no challenge being made to this petition despite of publication of the notice in Kannada Prabha Kannada daily newspaper as per Ex.P11, it appears to this court that, the evidence of both oral and documentary produced by the petitioners before this court in support of their claim corroborates the case. In the absence of any challenge, there appears no impediment for this court to grant the relief as sought for. In other words, there are no

grounds seen to reject the claim made by the petitioners. With all these observations, ***Point No.1 is answered in the Affirmative.***

9. **Point No.2:** For the aforesaid reasons, I proceed to pass the following:

ORDER

Petition filed by the petitioners Under Section 372 of the Indian Succession Act is hereby allowed.

Issue Succession Certificate in the name of the Petitioner No.1 in respect of schedule assets held by late. Yamuna, as shown in the petition.

Petitioner No.1 is directed to execute indemnity bond and to pay the requisite stamp fee.

No order as to costs.

(Dictated to the Stenographer directly on the computer, corrected by me and then pronounced in the open court on this 16th day of December 2022)

(Smt.Prathibha D.S)
Prl. Civil Judge & JMFC
Mangaluru, D.K.

ANNEXURE

List of witnesses examined on behalf of petitioners:

PW-1 : Udaya

List of documents exhibited on behalf of petitioners:

Ex.P.1: Death Certificate of Yamuna

Ex.P2 : Death Certificate of Thimmappa

Ex.P3 : Letter issued by the EPFO dated 23.02.2022.

Ex.P4 : Survival Certificate

Ex.P5 : Notarized Copy of Aadhar Card of PW.1

Ex.P6 : Notarized Copy of Aadhar Card of Petitioner No.2

Ex.P7 : Notarized Copy of Aadhar Card of Petitioner No.3

Ex.P8 : Notarized Copy of Aadhar Card of Petitioner No.4

Ex.P9 : Notarized Copy of Aadhar Card of Petitioner No.5

Ex.P10 : Notarized Copy of Aadhar Card of Petitioner No.6

Ex.P11 : Kannada Prabha Kannada Daily Newspaper dated
22.10.2022.

Ex.P11(a) : Portion of Publication

List of witnesses examined on behalf of Respondent:

-Nil-

List of documents exhibited on behalf of Respondent:

-Nil-

(Smt.Prathibha D.S)
Prl. Civil Judge & JMFC
Mangaluru, D.K.