

KAVN040025522017



**IN THE COURT OF THE PRL.CIVIL JUDGE & JMFC.,
VIJAYANAGARA DISTRICT, HOSAPETE**

PRESENT: Sri. Prashanth Nagalapur,
B.B.A., LL.B.,(Hons).,
Prl. Civil Judge & JMFC,
Vijayanagara District, Hosapete.

DATED THIS 23rd DAY OF MARCH 2025

P & Sc.No: 10/2017

Petitioners :-

- 1) K.Shanthi W/o Late G.Kanna, Age: 46 years, Woman Mazdoor,
- 2) K.Nandini D/o Late G.Kanna, Age: 26 years,
- 3) G.Kiran Kumar S/o Late G.Kanna, Age: 18 years, Woman Mazdoor,

All are residents of N.D.Block, C-7, near Anjineya Temple,
Maruthi Nagara, T.B.Dam, Hosapete, Vijayanagara District.

(By. Sri.M.Kalidas, Advocate.)

// Vs //

Respondents:

- 1) K.Amudavalli @ Amuda W/o Late G.Kannan, Age: 45 years,
Housewife, since dead by her legal heirs i.e., respondent
No.2, who is already on record.
- 2) K.Sharanya D/o Late G.Kannan, Age: 25 years,
Both are R/o C/o Jaya, P.L.C.Quarters, 13th Ward, T.B.Dam,
Hosapete, Vijayanagara District.
- 3) The Secretary, Tunga Bhadra Board, T.B.Dam, Hosapete.

- 4) The Superintending Engineer, Irrigation Branch, T.B.Dam, Hosapete.
- 5) The Executive Engineer, H.W. & H.L.C. Division, T.B.Board, T.B.Dam, Hosapete.
- 6) The Sub Divisional Officer, H.W. & Estate Sub Division, T.B.Board, T.B.Dam, Hosapete, Vijayanagara District.

(By Sri K.Ramappa, Advocate for Respondent No.1 & 2)

(By Smt A.Sheelavathi Bhat, Advocate for Respt.No.3 to 6)

ORDER

It is a petition filed by the petitioners U/Sec.372 of Indian Succession Act, seeking for issuance of succession certificate in respect of monetary death benefits of late Kannan, an employee of T.B.Board, T.B.Dam, Hosapete.

2. The brief facts of the case of the petitioners :-

The petitioner No.1 claims to be the second wife of late Kannan and petitioner No.2 & 3 claim to be the daughter and son of late Kannan through petitioner No.1. The respondent No.1 is the first wife of late Kannan and the respondent No.2 is the daughter of late Kannan through respondent No.1. The petitioners contend that late Kannan was living with them for last 30 years prior to his death and the respondents were receiving monthly maintenance allowance from him. They further contend that Kannan died on 30.11.2016 leaving behind the petitioners and respondent No.1 & 2 as his heirs. They allege that the respondent No.1 & 2 suppressing the

said fact have obtained survival certificate and filed application before the respondent No.3 to 6 claiming to the entire monetary death benefits. They contend that the respondent No.3 to 6 asked them to get an order from the civil Court to oppose the application made by the respondent No.1 & 2 and therefore, they are constrained to file the present petition.

3. The respondent No.1 & 2 appeared through their counsel and filed their objections to the petition. The respondent No.3 to 6 also appeared through their counsel and filed their objections.

4. The version of the respondent No.1 & 2 ;

The respondent No.1 and 2 admit that they are the wife and daughter of late Kannan. They also admit that Kannan died on 30.11.2016 at T.B.Dam. However, they deny all the other averments of the petition as false. They specifically deny the relationship between the petitioners and late Kannan. They contend that they have already obtained succession certificate in P & SC 1/2017 in the Court of Senior Civil Judge and JMFC., Hosapete on 25.04.2017 and therefore, the present petition is not maintainable. They seek an order to dismiss the petition.

5. The version of respondent No.3 to 6 ;

The respondent No.3 to 6 deny the averments made in the petition as false. They contend that the respondent No.1 and mother of Kannan by name Govindamma are nominees as per the service register and the names of the petitioners are not entered in the service register. They further contend that they are ready to release the claim amount in favour of any of the parties as per the directions of the Court. They further contend that the present petition is not maintainable as per provisions under Section 80 of Code of Civil Procedure is not complied with. Therefore, they seek an order to dismiss the petition.

6. In order to prove their case, the Petitioners have adduced oral and documentary evidence examining witnesses PW 1 & 2 and producing documents Ex.P.1 to 18. On the other hand, the respondents have adduced oral and documentary evidence examining a witness as RW 1 and producing documents Ex.R.1 to 12.

7. I have heard counsel for petitioners Sri M.Kalidas, Advocate, counsel for respondent No.1 & 2 Sri K.Ramappa, Advocate and counsel for respondent No.3 to 6 Smt.A.Sheelavathi Bhat, Advocate.

8. The following points arise for determination.

1. Whether the petitioners have made out sufficient grounds to issue the Succession Certificate in the name of petitioner U/S 372 and 374 of the Indian Succession Act, 1925?

2. What Order?

9. My answers to the above points are:-

Point No.1 :- In the Negative.

Point No.2 :- As per my final order

below for the following:-

:: REASONS ::

10. **POINT No.1:-** This is the petition filed by the petitioners U/S.372 of Indian Succession Act, 1925, for issuance of the Succession Certificate in the name of the petitioners. The burden of proving that the petitioners are entitled to get succession certificate as sought in the petition is on the petitioners.

11. The admitted facts on record are unequivocal and are as under :-

The respondent No.1 was lawfully married to deceased Kannan during his lifetime. The respondent No.2 is the legitimate daughter born from wedlock between respondent No.1 and deceased Kannan. The oral evidence of

PW 2 and RW 1 and the documents produced by the respondents disclose that Kannan was lawfully married to respondent No.1 and respondent No.2 is a daughter born from that wedlock. The material available on record and the admitted facts make it clear that the respondent No.1 & 2 qualify as clear and undisputed legal heirs under the personal law i.e., Hindu Law applicable to the parties.

12. In sharp contrast, the whole claim of the petitioners hinges on the assertion that the petitioner No.1 contracted second marriage with Kannan, while his marriage with respondent No.1 was still in subsistence. This claim alone makes it clear that the petitioner No.1 is debarred under personal law applicable to deceased Kannan to be his heir. Therefore, the very assertion made by the petitioner No.1 that she is also a heir cannot be accepted in view of the admitted facts.

13. The petitioners have produced the documents such as Aadhar card, voter identity card, PAN Card of Kannan, which bear the address House number-Block C7, Maruthi Nagar, T.B.Dam, Hosapete. The address of the petitioners in their identity cards at Ex.P.5 to 10 is also mentioned as House Number-Block C7, Maruthi Nagar, T.B.Dam., Hosapete. Though the address are one and the same, the said fact alone would not qualify the respondents to be considered

as heirs of late Kannan on the said ground. The respondents have stoutly denied the relationship between the petitioners and late Kannan and filed objections and affidavit countering the entire claim made by the petitioners. The genuineness, admissibility and probative value of the documents produced by the petitioners are hotly contested and therefore, the same has amounted in denial of status of the petitioners as legal heirs. The said question has transformed into a substantial and genuine dispute of fact.

14. The Section 372 of Indian Succession Act, 1925 envisages summary procedure for granting a succession certificate to enable the collection of debts and securities by the person appearing to have the best prima facie title. The provision is not designed as substitute for full trial on disputed facts of title, legitimacy or relationship. In proceedings of this nature, this court conducts a limited enquiry to ascertain apparent entitlement and refrains from adjudicating the contested issues that require detailed evidence. In the instant case, the foundational claim of marital relationship and parentage are categorically denied and therefore, the Court cannot proceed to grant succession certificate without impermissibly resolving the dispute.

15. It is well settled law that disputed questions concerning validity of marriage, legitimacy of children and

rival claims to heir-ship cannot be determined in summary proceedings under Section 372 of the Act. Such matters demand a regular civil suit wherein the parties can adduce comprehensive oral and documentary evidence, subject the same to rigorous testing and obtain a definite adjudication. It is impossible for this Court to determine the disputed facts in respect of marriage, parentage and relationship in the present case, which has got limited scope of adjudication.

16. The admitted facts and evidence available on record make it clear that the parties have got dispute regarding status of the petitioners vis-a-vis the deceased Kannan. In the facts and circumstances, relegating the petitioners to institute a comprehensive civil suit is imperative for just decision of all the issues involved in the case. A regular suit for declaration of status as legal heirs, legitimacy of alleged marriage and parentage, partition or entitlement to the estate left behind by the deceased or any other consequential reliefs including service benefits would provide proper forum for comprehensive evidentiary trial and reasoned adjudication. In the light of the admitted facts establishing the prima facie superior title of the respondent No.1 & 2, the serious and unresolved dispute surrounding the claim of the petitioners and the limited scope of Section 372 of the Act, the petition for grant of succession certificate cannot be allowed. Moreover, the respondents have already

obtained a succession certificate in P & SC 1/2017 from the Court of Hon'ble Senior Civil Judge & JMFC., Hosapete as per the contents of the objection as well as certified copies of said proceedings at Ex.R.10 to 12. Also, the respondent No.3 to 6 have claimed that the respondent No.1 is one of the nominees in the service register of Kannan and the petitioners are not named in the service register. This goes to show that the respondent No.1 and 2 are entitled to receive the service benefits as nominees and admitted heirs, subject to distribution of the same as per the outcome of a civil suit that may be filed by the petitioners in pursuant to the observations made above. For the reasons stated above, the petition filed for grant of succession certificate has to be dismissed. Considering the nature of the claims made and other material available on record, the parties shall be directed to bear their own costs. **Hence, I answer Point No.1 in the Negative.**

17. **POINT No.2:-** In the light of the above discussion, I proceed to pass the following:-

::O R D E R ::

The petition filed by the petitioners U/S.372 of Indian Succession Act, 1925, is hereby dismissed.

No order as to costs.

(Dictated to the stenographer directly on computer and computerized by him, corrected and signed by me and then pronounced in open Court on this 23rd day of March 2025)

(Prashanth Nagalapur.)
Prl.Civil Judge & JMFC.,
Vijayanagara District, Hosapete.

ANNEXURE

List of witness examined for the petitioner :-

PW-1 : K.Shanthi
PW-2 : G.Kiran Kumar

List of documents marked for the petitioner :-

Ex.P.1 : Death certificate of Kannan
Ex.P.2 : Aadhar Card of Kannan
Ex.P.3 : Election I.D.Card of Kannan
Ex.P.4 : PAN Card of Kannan
Ex.P.5 : Aadhar Card of Shanti K
Ex.P.6 : Election I.D.Card of Shanti
Ex.P.7 : Aadhar Card of Nandini K.
Ex.P.8 : Election I.D.Card of Nandini K.
Ex.P.9 : PAN Card of Nandini K.
Ex.P.10 : Aadhar Card of K.Kiran Kumar
Ex.P.11 : Election I.D.Card of Kiran Kumar
Ex.P.12 : PAN Card of Kiran Kumar
Ex.P.13 : Birth certificate of K.Kiran Kumar
Ex.P.14 : Transfer certificate of K.Kiran Kumar
Ex.P.15 : Admission card/Hall ticket of K.Kiran Kumar

- Ex.P.16 : SSLC Marks card of K.Kiran Kumar
Ex.P.17 : Certificate issued by ABHI Technologies
to K.Kiran Kumar
Ex.P.18 : Ration card

List of witness examined for the respondent;

- RW-1 : Smt.K.Sharanya

List of documents marked for the respondent :

- Ex.R.1 : Certificate issued by GHP, School,
T.B.Dam
Ex.R.2 : RTI application dated 10.11.2017
Ex.R.3 : Letter dated 27.07.2018
Ex.R.4 : Certificate dated 29.05.2018
Ex.R.5 : Certified copy of Memo dated 28.12.2016
of Sub-Div.officer, Estate & HW Div.
Ex.R.6 : Letter dated 03.04.2018
Ex.R.7 : Letter dated 23.06.2017
Ex.R.8 : Notice dated 24.03.2019 issued
under Section 91-160 Cr.P.C.
Ex.R.9 : Letter dated 03.12.2016
Ex.R.10 to 12: Certified copy of petition, order sheet and
Order in P & Sc.No.1/2017.

(Prashanth Nagalapur)
Prl.Civil Judge & JMFC.,
Vijayanagara District, Hosapete.