

Rajesh Paul vs The State (Govt Of Nct Of Delhi) on 21 December, 2024

IN THE COURT OF ASHWANI PANWAR, ACJ/CCJ/ARC,
NEW DELHI DISTRICT, PATIALA HOUSE COURTS, NEW
DELHI

CNR No. : DLND030009112024

Under Section : 372 of The Indian
Succession Act, 1925
Succession Court Case No. : 42/2024

1. RAJESH PAUL
S/O Late Sh. Jai Pal Gupta
R/O E-17, Second Floor, Anand Niketan,
South West, Delhi-110021

2. RAKESH PAUL
S/O Late Sh. Jai Pal Gupta
R/O E-17, Second Floor, Anand Niketan,
South West, Delhi-110021 Petitioners

VERSUS

1. THE STATE (GOVT OF NCT OF DELHI)
Address: 12/1 Jam Nagar House
Shajhahan Road New Delhi 110011

2. KFIN TECHNOLOGIES LIMITED
Registrar Of Apollo Tyres Limited
305 New Delhi House 27 Barakhamba Road

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New Delhi-110001

3. MCS SHARE TRANSFER AGENT LIMITED
F-65, 1st Floor, Ma Anandmayee Marg
Okhle Phase I Okhla Industrial Estate
New Delhi ... Respondents.

Date of Institution : 17.05.2024
Final arguments heard on : 21.12.2024
Judgment pronounced on : 21.12.2024
Petition under section 372 of The Indian Succession Act, 1925
for grant of succession certificate in respect of the debts &

JUDGEMENT

1. The present petition has been filed by the petitioners for grant of extension of succession certificate under section 372 of The Indian Succession Act, 1925 (hereinafter referred to as the "Act"), in respect of debts and securities of deceased, Late Smt. Krishna Mahajan.
2. Factual Matrix: The petitioners are the sons of the deceased. It is averred that deceased namely, Late Smt. Krishna Mahajan died on 09.12.2022. It is further averred that deceased Late Smt. Krishna Mahajan last resided at E-17, Second Floor, Anand Niketan, South West, Delhi-110021 which falls within the jurisdiction of this court. It is further averred that deceased was survived by only two class I legal heirs that is, petitioner no. 1 & 2 (sons of the deceased). The petitioners have approached this court with the instant petition seeking grant of succession certificate in respect of securities of the deceased, that is, amount invested in the form of shares of Apollo Tyres Ltd and DCM Shriram Limited.
3. Summoning of respondents and chain of subsequent events: Notice of the petition was ordered to be published in newspaper and accordingly, publication was done in newspaper titled as "The Statesman" & "Veer Arjun" on 12.07.2024 & 13.07.2024 respectively but none appeared on behalf of public at large, to raise any objection to grant of succession certificate in favour of petitioners.
4. Pursuant to the notice, official on behalf of respondent No.1 have appeared and filed relevant record in respect of deceased Smt. Krishna Mahajan.
- 4.1 Pursuant to the notice, official on behalf of respondent No. 2 & 3 have appeared and filed relevant record in respect of debts and securities of deceased Smt. Krishna Mahajan.
5. Evidence adduced by the petitioner: Petitioners have examined themselves as PW1 & PW2.

PW-1 has tendered his evidence by way of affidavit Ex.PW1/A bearing his signature at point A & B. He has relied upon the documents as follows:

- i) Copy of the Aadhar Card and the Pan Card- Ex.PW1/1;
- ii) True Copy of the death certificate of the deceased- Ex.PW1/2;
- iii) Copy of the surviving member certificate of the deceased- Ex.PW1/3;

5.2 PW-2 has tendered his evidence by way of affidavit Ex.PW2/A bearing his signature at point A & B. He has relied upon the documents as follows:

i) Copy of the Aadhar Card and the Pan Card of petitioner no.

2- Ex.PW2/1.

6. Thereafter, petitioners's evidence was closed and final arguments were heard.

7. Arguments, Appreciation of Evidence and Reasons: I have heard learned counsel for the petitioners, perused the material placed on record and considered the submissions advanced.

8. In Madhv Amma Bhawani Amma & Ors. v.

Kunjikutty Pillai Meenakshi, AIR 2000 SC 2301, 2000 (3) ALT 35 SC, 2001 (49) BLJR 813, it was held as under:

" The enquiry in proceedings for grant of succession certificate is to be summary, and the Court, without determining questions of law or fact, which seem to it to be too intricate and difficult for determination, should grant the certificate to the person who appears to have *prima facie* the best title thereto. In such cases the Court has not to determine definitely and finally as to who has the best right to the estate. All that it is required to do is to hold a summary enquiry into the right to the certificate, with a view, on the one hand, to facilitate the collection of debts due to the deceased and prevent their being time- barred, owing (for instance) to dispute between the heirs inter se as to their preferential right to succession, and, on the other hand, to afford protection to the debtors by appointing a representative of the deceased and authorising him to give a valid discharge for the debt. The grant of a certificate to a person does not give him an absolute right to the debt nor does it bar a regular suit for adjustment of the claims of the heirs inter se".

9. From the oral and documentary evidence on record, *prima facie* findings are as under:-

a) The deceased Late Smt. Krishna Mahajan expired on 09.12.2022 and she last resided at E-17, Second Floor, Anand Niketan, South West, Delhi-

110021, as reflected in plaint as well as in death certificate. The matter thus, falls within the jurisdiction of this court.

b) Deceased Late Smt. Krishna Mahajan had expired on 09.12.2022 leaving behind only two class I legal heirs, that is, the petitioner no. 1 & 2 (sons of the deceased).

10. Debts and Securities: The deceased died intestate qua debts and securities which are mentioned in the petition, testimony of PW-1 & PW-2, record filed by Kfin Technologies Limited as well as statement of RW-1. The details of the same are as follows:

S. Folio no. Particulars Shares Amount No .

1. 00008507 Apollo 2500 @Rs. 531.95/- Rs.26,59,750/-

Tyres Ltd

2. 00007057 Apollo 2500 @Rs. 531.95/-

Tyres Ltd

3. 00019923 DCM 1080 @Rs.1065.8/- Rs.16,94,622/-

Shriram Ltd

4. 0016745 DCM 510 @Rs.1065.8/-

Shriram Ltd Total Rs.43,54,372/-

11. Therefore, the total value of the debt and securities held by the deceased for which succession certificate has been applied for is Rs.43,54,372/-.

12. The aforesaid claim of the petitioners have gone unrebuted and none has appeared on behalf of the public to contest the claim of the petitioners. There is also no impediment under section 370 of the Act to grant succession certificate with respect to debts and securities as mentioned in the petition.

13. Conclusion: In view of the reasons spelled above, this court holds that petitioner no. 1 & 2 are equally (i.e. one half share each) entitled to grant of succession certificate under section 373 of the Act in respect of aforementioned securities, that is, an amount of Rs.43,54,372/-. Petitioners are also entitled to interest/dividend/ consequential benefits, if any, accrued thereupon.

14. Accordingly, succession certificate be issued to petitioners in the securities of the deceased on filing of corresponding court fees in terms of Article 12 Schedule-I of Court Fees Act, 1870 as applicable in Delhi and Indemnity-cum-surety bond of the like amount within 30 days from today. Petition is accordingly, disposed of.

Announced in the open court today i.e. 21.12.2024.

ASHWANI PANWAR ACJ-CCJ-ARC/NDD, PHC New Delhi: 21.12.2024