

## Succession Certificate Under Indian Succession Act

A succession certificate, under the Indian Succession Act, is a document that gives authority to the person who obtains it, to represent the deceased for the purpose of collecting debts and securities due to him or payable in his name. Usually, a succession certificate is the key in the absence of a will, a succession certificate will be the primary document through which the heirs can stake a claim to the assets of a deceased relative

For a succession certificate, one should need to apply to a magistrate or a high court. Usually, courts have a separate cell that issues succession certificates. When it comes to immovable property, there are other documents, like, for instance, a gift deed, that can help.

This certificate authorizes successor(s) to realize debts and securities of the deceased person. Issuance of succession certificate does not give right of succession to the claimed property of a deceased person, because it does not determine the right, title and interest of the deceased person to a particular property or entire property. However, successor(s) of intestate deceased person is/are entitled to inherit the deceased person's property.

### **What is a Succession Certificate for property ?**

Succession certificate is a document issued by a competent court (civil) certifying a rightful person to be the successor of a deceased person. This certificate authorizes successor(s) to realize debts and securities of the deceased person. Issuance of succession certificate does not give right of succession to the claimed property of a deceased person, because it does not determine the right, title and interest of the deceased person to a particular property or entire property. However, successor(s) of intestate deceased person is/are entitled to inherit the deceased person's property (ies).

As per Section 370 of Indian Succession Act, when the deceased person has left a validly executed Will, the entire estate of the deceased person under that will vests on the executor of the will and in such cases Succession Certificate cannot be granted. In eligible cases, the competent court to issue such certificate is the District Court (Section 371 of the said Act) in whose jurisdiction the deceased person generally resided.

## **For Movable Properties**

Succession Certificate is a document which is issued by the court for claiming movable properties by the successors of the deceased. It is significant, and proper advice should be sought while making and implementing these.

Mostly Banks don't release funds or FDs without a document of this type granted to the successor. It is applied for movable assets like bank deposits, FDs, etc.

If someone dies intestate, (without leaving a Will) it can be granted by the Civil Court to release the debts and securities of the one who is no more. It establishes the legitimacy of the heirs and gives them the authority to get the deposits and other assets transferred in their names. It is issued by the applicable laws of inheritance on an application filed by the beneficiaries in a court of relevant jurisdiction.

- The first step for any beneficiary is to file for a succession certificate in the same court within whose jurisdiction the dead person resided, to inherit the assets of the deceased or even get them transferred in his name.
- The document/certificate that is issued establishes the authenticity of the petitioner and gives him the authority to have the assets transferred to his name. Along with authority, the beneficiary will also carry with him the full responsibility and liability of honouring any debt or security attached to that particular property.
- For all applications made by a recipient to a court of competent jurisdiction, the document in all cases is issued as per the applicable laws of inheritance.

## **For Immovable properties**

In this case, we have situations when legal heirs stake ownership of title and possession. The title of a property can be transferred through a systematic process of transfer which can be based or done through a factum of a Will or Law of Natural Succession where class I legal heirs are the inheritors.

Also, a transfer can take place when the person is alive too, through a Gift Deed. In other cases, a person can claim his right through a partition.

After the completion of these procedures, the person stands entirely in ownership control. All related services can be taken care of by our firm, including getting documents and also sale if you want later on.

Some instances of succession certificate:

- Even if an overseas citizen were to know details about land that he thinks belongs to him, in many cases he finds himself in a situation where either parent or an uncle/aunt has died without making a Will.
- Just knowing that a piece of land belongs to him, cannot help much proper documentation is needed to assert a claim.
- Some rules determine the manner in which all the assets of the deceased are passed on to the heirs.
- It is not easy for him to understand how to get legal heir certificates and he will always need appropriate advice on these matters.
- While applying for such a document, the following information is required:
- The time of the death of the deceased, or the Death Certificate as proof.
- Place of residence of the dead person or if such residence is not within the jurisdiction of the district judge then, any other property of the same individual falling under the purview of the district judge to whom the application is made.
- The details of the family and other kith and kin of the deceased and their residential addresses.
- Proof of what right or what capacity he should be nominated as the successor of the departed.
- Sufficient evidence that the said asset does not fall under the restrictive cases and there is no dispute to his claim as a successor.
- Complete details of any debt or security attached

**DIFFERENCE BETWEEN LEGAL HEIR CERTIFICATE AND  
SUCCESSION CERTIFICATE !**

1) Legal heir certificate and succession certificate are entirely different. If the head or a family member passes away, the next direct legal heir of the deceased such as wife/ husband/son/daughter/mother can apply for the Succession Certificate. This certificate can be used for the purpose of transferring Electricity connection, Telephone connection/Patta transfer, House Tax, Bank Account, Filing of IT Returns etc.

2) If the deceased person is a Government servant then the legal heir certificate is issued for approval of family pension, or to get appointments on concerned grounds. Legal Heir certificate is also provided for transfer of property- movable and immovable assets.

3) A Succession Certificate is required when someone inherits any immovable property or movable property under the various Property Laws in the country. Most of these issues come under the Hindu Succession Act. While some of them come under the community acts or the Indian Succession Act. Issues need to be known in the right perspective for both categories.

4) Who issues these certificates?: Legal Heir certificates is issued by Tahsildar of the district to identify a particular deceased person living heirs and succession certificates are issued by the court to the legal heirs of a deceased person.

5) Who can apply for these Certificates?: For Succession Certificate: Only legal heir can apply For Legal Heir Certificate: son/daughter/husband/wife/parents of the dead person can apply.

6) What are the Documents required?: Required Documents to obtain succession certificates are death certificate of a dead person, time and place of death, the name of all legal heirs and relation with the dead person. Required Documents to obtain Legal Heir Certificate are Death certificate original, Identity Card, Ration Card, the name of Family members and relationship, an affidavit worth Rs. 20 on a stamp paper.

7) Fee: For succession certificate, three percentage of total value of the property will be charged. To issue legal heir certificate Rs.2 for a stamp and Rs. 20 for stamp paper for affidavit will be required.

8) Time period: In the case of succession certificate a newspaper notice for 45 days is issued by the court. Any person having an objection with such advertisement can file oppositions. If

the court doesn't receive any objection, it will issue succession certificate. This process may take 5-7 months. 15 to 30 days are needed to issue legal heir certificate.

9) Importance: The Succession Certificate is used for transfer or possession of property or for paying debts or security on behalf of a deceased person or for collecting debts or security on behalf of deceased. The Legal Heir Certificate is used for gratuity, pension, insurance, PF, retirement claims etc.

## **How to Get Succession Certificate in India**

Succession Certificate is a certificate granted by the Courts in India to the legal heirs of a person dying intestate leaving debts and securities. A person is said to have passed away intestate when he/she does not leave a **legal Will**. Succession certificate entitles the holder to make payment of debt or transfer securities to the holder of certificate without having to ascertain the legal heir entitled to it. Succession certificate provides indemnity to all persons owing such debts or liable on such securities with regards to all payments made to or dealings had in good faith with a person to whom a certificate is granted. Hence, many organisations and persons request for succession certificate before settling the debts or securities of the deceased in favour of the person claiming such debts or securities.

## **Procedure for Obtaining Succession Certificate**

To obtain succession certificate, a petition to the District Judge within whose jurisdiction the deceased person ordinarily resided at the time of his or her death or, if at that time he or she had no fixed place of residence, the District Judge within whose jurisdiction any part of the property of the deceased may be found.

## **Petition for Certificate**

A petition for succession certificate must contain the following particulars:

- Time of death of the deceased;
- Residence or details of properties of the deceased at the time of death within which Judge the jurisdiction falls under;

- Details of family or other near relatives;
- The rights of the petitioner;
- Absence of any impediment to the grant of certificate;

## **Grant of Certificate**

On making the petition, if the District Judge is satisfied as to the ground of making the petition, can grant an opportunity of hearing to persons who, in his/her opinion, should be heard. After hearing all parties, the Judge can decide the right of the petitioner to be granted the succession certificate. The Judge would then pass an order for grant of certificate specifying the debts and securities set forth in the application empowering the person to receive interest or dividend or to negotiate or transfer or do both.

## **Restriction on Succession Certificate**

A court can sometime require a bond with one or more surety or sureties or any other security for rendering an account of debts and securities received by the petitioner of succession certificate for indemnifying the persons who may be entitled to any part of the debt or securities.

## **Validity of Succession Certificate**

A succession certificate has validity throughout India. If a certificate is granted in a foreign country by an Indian representation accredited to that State, it should be stamped in accordance with the Court Fees Act 1870 to have the same effect in India as a certificate granted in India.

**Succession Certificate (SC)** is required when somebody inherits any immovable or movable property under the various relevant Laws in the country. The majority of these issues are covered under the Hindu Succession Act. However, the minorities are covered by their community acts or the Indian Succession Act. This issue needs to be understood in the right perspective for both categories.

## **Revocation of the Succession Certificate**

As per Section 383 of the said Act, **a certificate so issued may be revoked** for any of the following causes:-

Process for obtaining the certificate was defective.

Certificate was obtained fraudulently.

Certificate becomes useless and inoperative due to circumstances.

Decree or order of other competent court in dealing with the debts and securities of the same deceased person, renders it proper that the certificate is revoked.

Against an order of the District judge, in the matter of grant, refusal or revocation of certificate, a person may appeal to the appropriate High Court.

### Conclusion:

Succession Certificate is a document which is issued by the court for claiming movable properties by the successors of the deceased. It is significant, and proper advice should be sought while making and implementing these.

The succession certificate affirms who the legal heirs of the deceased are and that there was no will. This may be enough for the legal heirs to administer and dispose of property, but isn't the most pertinent document in case of properties. For this, it is possible that a letter of administration is necessary. A letter of administration is a document that explicitly grants a person the authority to administer the property of a person who has died intestate. This procedure to get this document is the same as the procedure for getting the succession certificate.

- SWATHI GORANTLA ,J.C.J, RAJAM