

## Succession Certificate

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*“Each and every person is bound to meet Death at some point throughout their lives, as death is something that cannot be denied.”*

### **SHORT SUMMARY:**

The author will cover the "**Succession Certificate**" in this column. Through the concept of "Testamentary Succession," which takes effect upon the testator's demise, a property owner has the option to plan the transfer of his property during his lifetime by drafting a will.

The transfer, however, will occur via "Intestate Succession" if he passes away intestate, or without a will, in accordance with the Indian Succession Act of 1925 and the Hindu Succession Act of 1956.

A property can never be devoid of a proprietor, as a matter of procedure. Property passes to the legatees specified in the testamentary bequest or, in the absence of a will, to the deceased's lawful successors upon the decedent's passing.

The property can be transmitted in two different ways:

1. By way of Probate of Will
2. By way of obtaining a Succession Certificate

'Succession Certificate' 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.

An individual who acquires movable or immovable property is obligated to provide a succession certificate, in accordance with the various property laws of the country. Certain of these issues are governed by the Hindu Succession Act, whereas others are governed by the Community Act or the Indian Succession Act. It is necessary to examine issues from both vantage points

### **Legal Provisions:**

Section 372 of the Indian Succession act, 1925, enables a person to submit application for grant of this certificate in respect of debt or security of the deceased who dies intestate.

### **Que: At what point does the necessity for a Succession Certificate arise?**

Death is an indisputable reality that is inevitable, so why not take measures to be ready for it? To alleviate the legal responsibilities associated with property ownership, one can draft a will to ensure that the transfer of ownership occurs through the process of succession, rather than relying on the court system. Upon the death of a testator who has left a Will, succession occurs in accordance with the provisions outlined in the Will.

Therefore, the need of succession certificate arise, when there is no will done by the person demise.

### **Process to Obtain Succession Certificate:**

To obtain a succession certificate, the legal heir must file an affidavit petition to the District Judge or in the High Court claiming their right over the property of the deceased. It should be signed and verified by the applicant.

#### **I. Authority:**

Section 371 of Hindu Succession Act provides the jurisdiction of place where the petition to be filed. To obtain this 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.

## **II. Documents Required for Succession Certificate:**

1. A copy of the death certificate which should include the time of death and place of death.
2. The ordinary residence of the deceased and if in any case, no such residence is available, then the particulars of the property which lies in the jurisdiction of the court where the application has been filed
3. The name, address, and other details of the legal heirs and other family members
4. A NOC or No Objection Certificate by the other heirs, other than the applicant, stating that they do not have any objection with the person claiming possession over the property
5. Copies of the passports or ration cards
6. The rights of the petitioner
7. The assets and the securities for which the application has been made needs to be mentioned.

## **III. Required Fees:**

Every state has adopted created their own Court Fee Act, by which every state having different court fee for issuance of this certificate. It is important to know here when court is required?

A court fee is required at the time of issuance of the Certificate. First court would allow the succession petition and then petitioner have to furnish the judicial stamps in accordance of property value. The Court will issue the certificate on those stamp papers.

Generally, Three per cent of the total value of the property will be indicated as stamp duty.

## **IV. Time Period:**

Firstly, a newspaper notice for a span of 45 days is issued by the court.

If any individual has any kind of objections towards the particular advertisement then they have a chance to file an opposition in the court. When the objections are received by the court it might take time for the issuance of the succession certificate till all of them are cleared.

**V. Significance of Succession Certificate:**

This certificate is used for possession or transfer of the property or security or paying the debts on behalf of the deceased person or for collecting the debts or security on behalf of the deceased.

**Importance and Use of Succession Certificates:**

**i. Transfer of Assets:**

Succession certificates play a crucial role in facilitating the legal transfer of the deceased person's assets to the rightful heirs. This includes immovable properties, bank accounts, investments, and other tangible and intangible assets.

**ii. Legal Recognition of Heirs:**

The issuance of a succession certificate by the court provides legal recognition to the heirs mentioned in the certificate. It establishes their rightful claim to the deceased person's estate, making the transfer of assets legally valid.

**iii. Debt Settlement:**

Succession certificates are instrumental in settling the debts and liabilities of the deceased. Creditors may request the succession certificate as proof of the legal heirs' authority to handle the deceased person's financial obligations.

**iv. Insurance Claims:**

When the deceased had insurance policies, the succession certificate is often required to process and claim the benefits. Insurance companies may demand this document to validate the legal entitlement of the heirs to the insurance proceeds.

**v. Bank Account Access and Closure:**

Legal heirs can use the succession certificate to gain access to the deceased person's bank accounts and subsequently close or transfer them. This is essential for managing the financial affairs of the deceased.

**vi. Stocks and Investments:**

In cases where the deceased held stocks, mutual funds, or other investments, a succession certificate may be necessary for the transfer or redemption of these assets. Financial institutions and investment companies may request this document as part of their due diligence process.

**vii. Property Transactions:**

If the deceased person owned real estate, a succession certificate is often required to effect the transfer of ownership. This is crucial for selling, bequeathing, or otherwise dealing with immovable properties.

**viii. Business Affairs:**

In situations where the deceased was involved in a business, the succession certificate is vital for the legal transfer or management of business assets. It helps in ensuring a smooth transition in ownership or management.

**ix. Pension and Employee Benefits:**

Succession certificates may be necessary for claiming pension benefits and other employment-related benefits of the deceased. This is especially relevant in cases where the deceased was a government employee or had private pension plans.

**x. Legal Authority:**

The succession certificate grants legal authority to the heirs to act on behalf of the deceased. It serves as evidence that the court has recognized their status as the rightful successors and enables them to execute various legal and financial transactions.

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