

KABC0A0036372023



**IN THE COURT OF THE LVII ADDL. CITY CIVIL AND
SESSIONS JUDGE, AT MAYO HALL, BENGALURU.
(CCH-58)**

Present:

Sri.Gangappa Irappa Patil, B.A., LL.B. (Spl.),
LVII Addl.City Civil & Sessions Judge,
Bengaluru.

Dated this the 8th day of November, 2023.

P & SC No.25069/2023

Petitioners:

1) Mr.Akbar Basha,

S/o. Late Mr.Manayil Abdul Samad,
Aged about 80 years,
R/at No.13, Bowee Street,
Nearby BMS School,
Halasuru, Bengaluru-560 008.

2) Mr.Samad Abdul Khyum,

S/o. Late Mr.Manayil Abdul Samad,
Aged about 78 years,
R/at No.37, 3rd Cross,
Railway Layout, 3rd Stage,
Pillanna Garden, Arabic College,
Bengaluru-560 045.

3) Mrs.Zahida Begum,

D/o. Late Mr.Manayil Abdul Samad,
C/o. Mr.Abdul Lateef M.R.,
Aged about 69 years,
R/at No.25, 'C' Bowee Lane Street,
Halasuru, Bengaluru-560 008.

4) Mr.Ansar Basha S.,

S/o. Late Mr.Manayil Abdul Samad,
Aged about 64 years,
R/at No.45, kaliaamma Koil Street,
Halasuru, Bengaluru-560 008.

(By Sri.Guruswamy K.S., Adv.)

-Vs-

Respondent:

NIL

ORDERS

This Petition is filed by the petitioners u/s 372 of Indian Succession Act. The petitioners pray for issue Succession Certificate to the estate of Late.Mohammed Ziauddin @ Mohammed Ziauddin, who died on 27.02.2023, in respect of schedule property viz., deposit amount of Rs.3,58,987 in savings Bank Account No. 020101000028169 with Indian Overseas Bank, Cox Town branch code-0201 in their favour and grant such other reliefs.

2. It is stated in the petition that, the petitioners parents viz., Mr.Manayil Abdul Samad and Mrs.Ramiza Bibi were died on 08.09.1981 and 01.11.1995 and out of their wedlock they had 7 children. Petitioners are the 2nd , 3rd , 6th and 7th children and remaining 1st , 4th and 5th children viz., Mr.M.A.Basha, Mr.Mohammed Ziauddin @ Mohammad

Ziauddin and Mrs.Zaibunissa were died on 25.06.2003, 27.02.2023 and 09.11.2017 respectively. The petitioners are residing separately at the cause title addresses. The petitioners are Muslims and governed by Mohammadden Law, the deceased Mr.Mohammed Ziauddin @ Mohammed Ziauddin had married only one wife viz., Mrs.Naseemunnisa @ Naseem Zia, who died on 15.03.2017 and they did not have any issues out of their wedlock.

3. The petitioners submit that, said Mr.Mohammed Ziauddin @ Mohammed Ziauddin expired on 27.02.2023 at Chinmaya Hospital, C.V.Raman Nagar, Bengaluru due to ill-health, leaving behind the petitioners to succeed his estate and other properties and at the time of death he was residing at No.29, 3rd Stage, 8th Main, Pillanna Garden, Bengaluru-45. During the life time of Mr.Mohammed Ziauddin @ Mohammad Ziauddin, he had deposited a sum of Rs.3,58,987/- in his savings Bank Account No. 020101000028169 with Indian Overseas Bank, Cox Town branch, Branch code-0201, No.157, MM Road, Frazer Town, Bangalore-05. The petitioners submit that, they have informed the death of Late Mr.Mohammed Ziauddin @ Mohammad Ziauddin to the above said Bank and requested them to release the aforesaid amount in favour of the petitioners. However, they have advised the petitioners to submit succession certificate from their jurisdictional Court to enable them to release the same into the name of the petitioners. Hence, the petitioners being the legal heirs of

Late Mr.Mohammed Ziauddin @ Mohammad Ziauddin, who having died intestate, are approaching this court seeking succession certificate U/Sec.372 of Indian Succession Act, 1925.

4. The cause of action are to file the above petition, when they were directed to produce Succession Certificate from the competent court of law on 02.09.2023 and subsequently within the jurisdiction of this Court.

5. On filing of the of the petition, paper publication was taken, but none of the persons appeared in responding to the paper publication.

6. In order to prove the case, the 2nd petitioner is examined as PW1 and Ten documents marked as Exs.P1 to P15.

7. Arguments heard.

8. The points that would arise for my consideration are:-

1) Whether the petitioners are entitle for Succession Certificate as prayed in the petition?

2) What order?

9. My finding on the above points are as under:-

Point No.1 : In the Affirmative,

Point No.2 : As per the order below for
-the following:

REASONS

10. **Point No.1:-** This is a petition filed by the petitioners u/s 372 of Indian Succession Act and pray for grant of Succession Certificate.

11. The petitioner filed an evidence by way of affidavit and reiterated the petition averments. According to the petitioners, they are the legal heirs of Late Mr.Mohammed Ziauddin @ Mohammad Ziauddin, who expired on 27.02.2023 at Chinmaya Hospital, C.V.Raman nagar, Bangalore due to ill-health, leaving behind petitioners to succeed his estate and other properties and at the time of death he was residing at No.29, 3rd Stage, 8th Main, Pillanna Garden, Bengaluru-45. During the life time of Mr.Mohammed Ziauddin @ Mohammad Ziauddin, he had deposited a sum of Rs.3,58,987/- in his savings Bank Account No. 020101000028169 with Indian Overseas Bank, Cox Town branch, Branch code-0201, No.157, MM Road, Frazer Town, Bangalore-05.

12. The petitioners submit that after demise of Mr.Mohammed Ziauddin @ Mohammad Ziauddin, they are the absolute owners of deposited a sum of Rs.3,58,987/- in his savings Bank Account No.020101000028169 with Indian Overseas Bank, Cox Town branch, Bangalore. The petitioners had produced all the documents before the Bank to establish that they are the Legal heirs of deceased Mr.Mohammed Ziauddin @ Mohammad Ziauddin, and requested for the transfer amount of SB A/c in favour of

petitioners. The petitioners submits that Bank authority, informed them to secure Succession Certificate in respect of the schedule property. Hence, petitioners prays to issue Succession Certificate in their names.

13. The petitioner had produced the Ex.P1 Original Letter dtd.02.09.2023, Ex.P2 Certified copy of the Account statement from 01.01.2022 to 02.09.2023, Ex.P3 Original copy of the family tree, Ex.P4 Original death certificate of Mr.Abdul Samad, Ex.P5 Endorsement issued by BBMP dtd. 04.01.2014, Ex.P6 Original death certificate of Mr.M.A.Basha, Ex.P7 Original death certificate of Mr.Mohammed Jiauddin, Ex.P8 Original death certificate of Smt.Jaibunnisa, Ex.P9 Original death certificate of Smt.Nasimunnisa, Ex.P10 Family Tree Affidavit, Ex.P11 Notarized copy of Aadhar card of Akbar Basha, Ex.P12 Notarized copy of Aadhar card of Samad Abdul Khyum, Ex.P13 Notarized copy of Aadhar card of Smt.Zaheed Begum Begum, Ex.P14 Notarized copy of Aadhar card of Ansar Basha and Ex.P15 Paper publication dtd.28.09.2023 published in Hosadigantha kannada daily newspaper. In this case inspite of taking paper publication by the petitioners, none of the parties appeared responding to the paper publication. Further there is no rival claimants regarding the Savings Bank deposit.

14. Therefore, in order to facilitate the petitioners it is just and necessary to grant Succession Certificate in the name of the petitioners. In view of the aforesaid reasons this court answered Point No.1 in ***affirmative***.

15. **Point No.2**: In view of findings on point No.1, I proceed to pass the following:-

ORDER

The petition filed by the petitioners U/Sec. 372 of Indian Succession Act is allowed.

Issue Succession Certificate in favour of the petitioners in respect to the schedule Deposit amount of Rs.3,58,987/- in savings Bank Account No.020101000028169 with Indian Overseas Bank, Cox Town branch code-0201, No.157, MM Road, Frazer town, Bangalore-05 after collecting prescribed fee.

(Dictated to the Judgment-writer on Computer, then corrected and pronounced by me in the open court on this the 8th day of November, 2023.)

(Sri.Gangappa Irappa Patil)
LVII Addl. CC & Sessions Judge,
M.H.Unit, Bengaluru.

A N N E X U R E

List of witnesses examined for Petitioners:

PW.1 : Mr.Samad Abdul Khyum

List of documents marked for Petitioners:

- Ex.P1 : Original Letter dtd.02.09.2023
 Ex.P2 : Certified copy of the Account statement from
 -01.01.2022 to 02.09.2023
 Ex.P3 : Original copy of the family tree
 Ex.P4 : Original death certificate of Mr.Abdul Samad
 Ex.P5 : Endorsement issued by BBMP dtd.04.01.2014
 Ex.P6 : Original death certificate of Mr.M.A.Basha
 Ex.P7 : Original death certificate of Mr.Mohammed
 -Jiauddin
 Ex.P8 : Original death certificate of Smt.Jaibunnisa
 Ex.P9 : Original death certificate of Smt.Nasimunnisa
 Ex.P10: Family Tree Affidavit
 Ex.P11 : Notarized copy of Aadhar card of Akbar Basha
 Ex.P12 : Notarized copy of Aadhar card of Samad Abdul
 -Khyum
 Ex.P13 : Notarized copy of Aadhar card of Smt.Zaheed
 -Begum Begum
 Ex.P14 : Notarized copy of Aadhar card of Ansar Basha
 Ex.P15 : Paper publication dtd.28.09.2023 published in
 -Hosadigantha kannada daily newspaper

(Sri.Gangappa Irappa Patil)LVII Addl. CC & Sessions Judge,
M.H.Unit, Bengaluru.**SCHEDULE**

Deposit amount of Rs.3,58,987/- in savings Bank
 Account No.020101000028169 with Indian Overseas
 Bank, Cox Town branch code-0201, No.157, MM Road,
 Frazer town, Bangalore-05.

(Sri.Gangappa Irappa Patil)LVII Addl. CC & Sessions Judge,
M.H.Unit, Bengaluru.

Order pronounced in open court
(vide separate order)

ORDER

The petition filed by the petitioners U/Sec. 372 of Indian Succession Act is allowed.

Issue Succession Certificate in favour of the petitioners in respect to the schedule Deposit amount of Rs.3,58,987/- in savings Bank Account No.020101000028169 with Indian Overseas Bank, Cox Town branch code-0201, No.157, MM Road, Frazer town, Bangalore-05 after collecting prescribed fee.

*LVII Addl. City Civil & Sessions Judge,
Mayo Hall unit, Bangalore.*

