

KABC010248132023



**IN THE COURT OF THE XLIII ADDL. CITY CIVIL AND
SESSIONS JUDGE (CCH.No.44), AT BENGALURU**

PRESENT: SRI.BHAT MANJUNATH NARAYAN,
B.Com, LL.B.(Spl.)
XLIII ADDL.CITY CIVIL & SESSIONS JUDGE,
BENGALURU .

DATED: THIS THE 24TH DAY OF AUGUST, 2024

P&SC.No.540/2023

Petitioners:-	1. Smt.Damayanthi K.Patel W/o. Late Kantilal Velji Patel Aged about 54 years, R/at.No.63, Hegde Nagar Main Road, Opp: Shobha City Cokkanahalli, Bengaluru North. 2. Sri.Vijya K.pael, S/o. Kantilal Velji Patel Aged about 34 years R/at.No.108, SLV Grand Apartment, Central Excise Layout, Hegde Nagar, Balaji Krupa Layout, Bengaluru North, 3. Smt.Leena K.Patel, W/o. Keerti Kumar, Aged about 31 years R/at.Mathrushree Nivas,
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	Near Vinayaka temple, Agrahara Nagara, Sathyamangala Swandenahalli, Tumkur. 4. Smt.Nayana Patel, W/o. Raju Patel, Near CGM School, Ayyappaswamy Extension, Chitradurga -577527 (By Sri.Prabhakar.R - Advocate)
	-VS-
Respondent:-	M/s.Religare Finance Limited, No.421/G, 1st floor, 1st Main Road, 1st Stage Indiranagar, Krishna Temple Road, Bengaluru (By Sri.K.R.S- Advocate)

**ORDERS ON MAIN PETITION FILED UNDER
SECTION 372 OF INDIAN SUCCESSION ACT.**

This petition is filed under Section 372 of Indian Succession Act.

2) The averments made in the petition in brief, are as under:-

The petitioners claim that 1st petitioner is the wife of Kantilal Velji Patel and petitioners 2 to 4 are children of deceased Kantilal Velji Patel. It is submitted by the petitioners that during the lifetime, Kantilal

Velji Patel, he has taken loan from the respondent by pledging the property documents as security. It is submitted by the petitioners that loan was advanced by respondent in respect of the property bearing No.153/1, situated at Kodathi village, Varthur Hobli, Bengaluru South Taluk, measuring 19 guntas out of 38 guntas. It is submitted by the petitioners that Kantilal Velji Patel during his lifetime has cleared all the loan obtained from the respondent.

(b) It is further submitted by the petitioners that Kantilal Velji Patel died on 31.08.2018 leaving behind him the 1st petitioner-wife and petitioners 2 to 4 children as his legal heirs. It is submitted by the petitioners that though Kantilal Velji Patel had cleared loan with interest, respondent has not issued Clearance certificate, NOC and also not returned the title deeds to the petitioners. The petitioners submit that on 20.08.2023, they visited the office of respondent and requested for return of the title deeds, but the respondent has insisted to furnish Succession

certificate to return the documents. Therefore, the petitioners submit that they have filed this petition requesting this court to issue Succession Certificate in respect of the property left by the deceased Kantilal Velji Patel.

3) The respondent though appeared, has not filed objections. Notice of petition was published in newspaper, no one have appeared and objected for grant of Succession certificate.

4) On the basis of the pleadings following points arise for determination:-

1. Whether the petitioners are entitled for Succession certificate?
2. What order?

5) The 1st petitioner is examined as P.W.1 and she has produced six documents. The respondent has not adduced oral and documentary evidence. I have heard counsel for the petitioners. Perused the oral and documentary evidence available on record and my findings on the above points are as below:-

Point No.1:	In the Affirmative
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Point No.2:	As per the final order for the following:-
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REASONS

6) Point No.1:- That, petitioners are seeking issuance of Succession certificate to facilitate them to receive the title deeds pledged for securing loan from the respondent. Though, in the petition the petitioners have mentioned schedule as immovable property, the reason for filing this petition is to claim title deeds which was pledged for obtaining loan from the respondent. So petition is with respect to loan obtained by deceased Kantilal Velji Patel from respondent by pledging documents and for return of those documents. The Succession certificate cannot be issued in respect of immovable property, but however, Succession certificate can be issued in respect of debt, or liability which was due to the deceased or if debt or liability is satisfied, then for return of any security furnished for obtaining the loan, succession certificate can be issued by the court.

Therefore, petition seeking Succession certificate is maintainable.

7) I have perused the oral and documentary evidence produced by the petitioners in detail. P.W.1 wife of deceased Kantilal Velji Patel deposed that Kantilal Velji Patel was the absolute owner of the property No.153/1, situated at Kodathi village, Varthur hobli, Bengaluru South Taluk and he has borrowed loan from the respondent by pledging/depositing the original title deeds. It is also stated that during the life time of Kantilal Velji Patel, loan amount is repaid. It is the specific case of the petitioners that in spite of request made by them, the respondent has not returned the documents, but sought for Succession certificate. Ex.P1 shows that Kantilal Velji Patel died on 31.08.2018. As per Ex.P2, it is clear that petitioner No.1 is the wife, petitioners No.2 to 4 are the children of deceased Kantilal Velji Patel. So the petitioners 1 to 4 being the legal heirs of Kantilal Velji Patel have succeeded to the estate of the deceased.

8) It is not disputed by the respondent that loan was obtained by Kantilal Velji Patel by depositing the original title deeds of the property bearing No.153/1. It is also not disputed by the respondent that Kantilal Velji Patel had repaid the entire loan amount. Once entire loan amount is repaid, then owner of the property is entitled for return of original title deeds which are deposited as security to loan. For the purpose of return of original title deeds, now the petitioner is seeking Succession certificate. Petitioners being the legal heirs of deceased Kantilal Velji Patel are successors of Kantilal Velji Patel and are entitled to receive the documents pertaining to the suit property which was deposited with respondent. Therefore, in my considered opinion, to facilitate the petitioners to receive the documents which was pertaining to the loan obtained by Kantilal Velji Patel and deposited as security succession certificate can be issued. As the petition is with respect to return of title deeds and issuance of Succession certificate for

the same, in my opinion, Succession certificate can be granted and as such petitioners are entitled for issuance of Succession certificate. Accordingly point No.1 is answered in the Affirmative.

9) Point No.2:- In view of the discussion and conclusion arrived at point No.1, the petition is liable to be allowed. Hence I proceed to pass the following:-

ORDER

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

**The office is directed to issue
Succession certificate to the petitioners
for return on title deeds deposited as
security for the loan availed by
deceased Kantilall Velji Patel from the
respondent on payment of requisite
stamp duty.**

(Dictated to the Stenographer Grade-I, transcript thereof corrected, signed and then pronounced by me, in open Court, on this the 24th day of August, 2024.)

**(BHAT MANJUNATH NARAYAN)
XLIII Addl. City Civil & Sessions Judge,
Bengaluru**

ANNEXURE

I. List of witnesses examined on behalf of petitioners:-

P.W.1: Damayanthi K.Patel

II. List of witnesses examined on behalf of respondent:

---NIL----

III. List of documents exhibited on behalf of petitioners:-

Ex.P.1:	Death certificate of Kantilal Velji Patel
Ex.P.2	Attestation of family tree issued by Deputy Tahsildar, Yelahanka
Ex.P.3 to Ex.P6	Notarised copy of Aadhar card of petitioners No.1 to 4 respectively.

IV. List of documents exhibited on behalf of respondent:-

--NIL---

(BHAT MANJUNATH NARAYAN)
LXIII Addl. City Civil & Sessions Judge
Bengaluru

**Orders pronounced in open court
(vide separate order)**

ORDER

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

The office is directed to issue Succession certificate to the petitioners for return on title deeds deposited as security for the loan availed by deceased Kantilall Velji Patel from the respondent on payment of requisite stamp duty.

XLIII ACC&SJ, Bengaluru