

KADK210004542025



**IN THE COURT OF THE PRL.CIVIL JUDGE AT
BANTWAL**

PRESENT

**SRI.RAJENDRA PRASAD K.S., LL.M
PRL CIVIL JUDGE, BANTWAL**

P & SC No.31/2025

Dated this the 1st day of July 2026

BETWEEN:

1. **ARTHUR DSOUZA**
S/o L Lawrence Dsouza
aged about 63 years,
R/at #4-31/3, Thevu House,
Pudu, Farangipete, Bantwal D.K
Karnataka-574143
2. **LAVEENA DSOUZA**
W/o Austin Dsouza
aged about 50 years,
residing at #4-31 Thevu House,
Pudu, Farangipet, Bantwal
D.K Karnataka-574143
3. **ASHLIN DSOUZA**
D/o Austin Dsouza
aged about 25 years,
residing at #4-31, Thevu House,
Pudu, Farangipet, Bantwal
D.K, Karnataka-574143

4. **JOSSY DSOUZA**
S/o L Lawrence Dsouza
aged about 58 years,
residing at #4-31, Thevu House,
Pudu Village, Arkula,
Farangipet, Mangalore, D.K
5. **ANITA FRANCIS ABREO**
D/o L Lawrence Dsouza
aged about 55 years,
residing at A Wing, Flat No.101,
Ammu Arcade,
Motha Mhasoba Maidan,
Near Shivsena Sanjay Patil Office Kalyan west,
Kalyan Post, Thane, Maharashtra

.....Petitioners

(By Adv: Sri Arun Roshan D'Souza)

-AND-

- NIL-

.....Respondents

- = ♦ = -

ORDER

The present petition has been filed by the petitioners for grant of Succession Certificate under Sec.372 of The Indian Succession Act, 1925 in respect of pension amount/ROC benefit of the deceased, Late. Cecilia Dsouza.

2. Brief facts of the case of the Petitioners are that:-

That, Late.Cecilia Dsouza was died intestate on 21.01.2025 and her husband Lawrence Dsouza predeceased

her on 21.03.2024. The said Cecilia Dsouza was working as a Beedi Roller in Ganesh Beedi, Farangipete, Mangalore, D.K. The petitioner's no.1 is the son, petitioner no.2 is the daughter in law and petitioners no.3 to 5 are the Grand Children of Late.Cecilia Dsouza. That, Late. Cecilia Dsouza and her husband Lawrence Dsouza were left behind the petitioners as their sole surviving legal heirs. During the life time of the said Cecilia Dsouza, she had been receiving pension from the Employees Provident Fund Organization. After her death, petitioner No.1 has applied for the payment of return of capital in respect of TRO/PEN-III/2024-2025/2597, dated 27.03.2025. Since Cecilia Dsouza was a pensioner, her legal heirs are entitled for payment of return of capital in respect of her account No.KN/MLR/1751. But the concerned authority have directed the petitioner no.1 to produce the Succession Certificate from the Court of law as per its letter dated 27.03.2025. That the petitioners are the Christian by religion and governed by the provisions of the Indian Succession Act 1925. The petitioners being the legal heirs of the deceased late Cecilia Dsouza are entitled to receive her estate. Hence, this petition.

3. Notice of the petition was ordered to be published in newspaper and accordingly, publication was done in newspaper titled 'Hosa Digantha' on 02.12.2025, but none appeared on behalf of public at large, to raise any objection to grant of succession certificate in favour of the petitioners.

4. In order to prove the case, on behalf of the petitioners, the petitioner no.1 got examined as PW1 and got marked as many as 11 documents as Ex.P1 to Ex.11 and closed the evidence without got examining any other witnesses on behalf of petitioners.

5. I have heard the arguments of learned counsel for the petitioners.

6. Perused the petition averments, entire oral and documentary evidence placed on record.

7. Based on the averments of petition, the following points would arise for consideration of this Court:

1) Whether the petitioners are entitled for the Succession Certificate as prayed for?

2) What order ?

8. My findings to the above points are as follows:-

Point No.1 : In the **Affirmative**

Point No.2 : As per the final order
for the following:

:REASONS:

9. **Point No.1:** It is the case the petitioners that, the petitioner no.1 is the son and petitioner no.2 is the daughter-in-law and petitioners no.3 to 5 are the grand children of Late. Lawrence D Souza and Late Cecilia D Souza. The

deceased Cecilia D Souza was the holder of Employment Provident Fund Organization and receiving pension as per PPO No.KN/MLR/1751. After the death of said Cecilia D Souza, the petitioners being the sole surviving legal heirs are entitled to get ROC benefit of the deceased Cecilia D Souza.

10. In order to discharge the burden of proof, on behalf of the petitioners, the petitioner no.1 got examined as PW1 by filing affidavit-in-lieu of his oral examination-in-chief. In the affidavit it is nothing but reiteration of averments of petition. In support of the case, PW1 has got marked as many as 11 documents as Ex.P1 to Ex.P11. I have carefully examined the documents got marked by the PW1. The Ex.P1 is the Death certificate of Lawrence D Souza wherein he was died on 21.03.2024. Ex.P2 is the Death certificate of Cecilia D Souza wherein she was died on 21.01.2025. Ex.P3 is the Death certificate of Austin D Souza wherein he was died on 19.04.2019. Ex.P4 to Ex.P8 are the Aadhaar card of the petitioners. Ex.P9 is the family survival certificate of the family of the deceased Smt.Cecilia D Souza which discloses that, the petitioners are the only surviving legal heirs of deceased Smt.Cecilia D Souza. Ex.P10 is the letter dated 27.03.2025 issued by the Employees Provident Fund Organization, which discloses that, the petitioner No.1 herein had approached the EPF Organization claiming ROC benefits of deceased Smt. Cecilia D Souza and the said authority have directed the petitioner no.1 to submit succession certificate in

original empowering any one person among the surviving family members of the deceased to claim the amount with claim application for return of capital amount of Rs.45,100/-. Ex.P11 is the newspaper dated 02.12.2025 which shows that, the petitioners have given public notice about the filing of this petition. In spite of the said publication, no contesting respondents are appeared before the Court to raise any objection for grant of succession certificate in favour of the petitioners. All the aforesaid documents are elementary that, the petitioners are the only surviving legal heirs of the deceased Smt.Cecilia D Souza.

11. The oral and documentary evidence of PW1 remained unchallenged. Ex.P9 family surviving certificate issued by the Deputy Tahasildar, Bantwal Taluk discloses that, the petitioners are the only surviving family members of the deceased Smt.Cecilia D Souza W/o Late. Lawrence Dsouza. The petitioners have proved with the help of documentary evidence that, they are the only surviving legal heirs of deceased Cecilia D Souza W/o Late. Lawrence Dsouza and they jointly entitled to claim the benefit and estate of the deceased Cecilia D Souza. Under such circumstances, this Court is of the considered opinion that, the petitioners being the surviving legal heirs of deceased Cecilia D Souza are entitled for Succession Certificate as per Section 372 of The Indian Succession Act.

12. In the petition, the petitioners no. 2 to 5 have jointly agreed to represent them by the petitioner no.1 and to issue succession certificate in his name to claim the amount with claim application for return of capital amount (ROC) of Rs.45,100/- on their behalf. Admittedly, the petitioners are the only surviving legal heirs of the deceased Cecilia D Souza and Lawrence Dsouza. Admittedly, the father and mother of the petitioners died intestate. When such being the case, the petitioners being the Class-I legal heirs are jointly entitled to succeed to the estate of the deceased. The amount in question can be claimed by the heirs of the deceased in accordance with the law of succession governing them. In view of the clear legal position, it is made abundantly clear that, unlike nominee the amount in any head can be received by one of the legal heir of the deceased by submitting representation on behalf of other legal heirs of the deceased. Mere receiving of amount by making representation on behalf of other legal heirs, does not confer any beneficial interest on the person receiving the amount unless there is any settlement between the heirs regarding relinquishment/abandonment of claim by other heirs in favour of the person receiving the amount. In the instant case, there is no such relinquishment or abandonment of claim by the petitioners no.2 to 5 in favour of petitioner no.1. On the other hand, they mutually agreed to represent the petitioner no.1 on their behalf and to issue

succession certificate in his name to claim/receive the amount by making representation to the authority.

13. In the light of the aforesaid discussion the petitioners are held to be legally entitled to the pension amount/ROC benefit of the deceased Cecilia D Souza. In view of the reasons spelled above, this Court holds that, the petitioners are entitled for grant of Succession Certificate under section 372 of the Act in respect of aforementioned pension amount/ROC benefit of the deceased. Further in view of understanding between the petitioners to represent the petitioners no.2 to 5 by the petitioner no.1 and to issue succession certificate in the name of petitioner no.1, there is no impediment to issue succession certificate in the name of petitioner no.1. Further it is made it clear that, the grant of succession certificate to the petitioner no.1 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 interse. With these observations, this Court answered the **Point No.1 in the 'Affirmative'**.

14. **Point No.2:** For the foregoing reasons and discussions,. I proceed to pass the following:-

ORDER

The petition filed by the Petitioners under Sec.372 of Indian Succession Act is hereby allowed.

Issue Succession Certificate in favour of petitioner No.1 in respect of petition schedule amount with interest/consequential benefits, if any, accrued thereupon.

Considering the facts and circumstances of the case, no order as to costs.

(Dictated to the Stenographer, typed by her and the transcript revised and corrected by me and then pronounced in the open Court on this 1st day of July, 2026).

(RAJENDRA PRASAD K.S.)
Prl Civil Judge,
Bantwal

ANNEXURE

List of witnesses examined on behalf of the plaintiff:

PW1 : Sri.Arthur D Souza

List of documents marked on behalf of the plaintiff:

Ex.P1: Death certificate of Sri.Lawrence D souza

Ex.P2: Death certificate of Smt. Cecilia D Souza

Ex.P3: Death certificate of Sri. Austin D Souza

Ex.P4 to P8: Certified copies of Aadhaar cards of petitioners.

Ex.P9: Survival Certificate of the petitioners

Ex.P10: Letter of Employees Provident Fund
Organization

Ex.P11: Hosa Digantha Daily News Paper

Ex.P11(a): Part of paper publication

List of witnesses examined on behalf of the Defendants:

-NIL-

List of documents marked on behalf of the Defendants:

-NIL-

**(RAJENDRA PRASAD K.S.)
PRL. CIVIL JUDGE
BANTWAL**