

IN THE HIGH COURT OF JHARKHAND AT RANCHI
M. A. No. 215 of 2025

Suresh Kumar Agarwal, S/o Late Ratan Lal Gupta @ Ratan Lal Mittal @
Ratan Lal Agarwal, R/o Temple Road, Purana Bazar, P.O.-Dhanbad, P.S.-
Dhansar, Dist.-Dhanbad Appellant

Versus

1. Naresh Kumar Agarwal, S/o Late Ratan Lal Gupta @ Ratan Lal Mittal
@ Ratan Lal Agarwal, R/o Temple Road, Purana Bazar, P.O.-Dhanbad,
P.S.-Dhansar, Dist.-Dhanbad
2. Asha Agarwal, W/o Sri Shravan Kumr Kejriwal, R/o Shree Durga
Kirana Bhandar Karkend, P.O.-Kusunda, P.S.-Kenduadih, Dist.-Dhanbad
3. Nirmala Agarwal, W/o Sri Dilip Kumar Patwari, R/o Mahuda Bazar,
P.O.-Mahuda, P.S.-Mahuda, Dist.-Dhanbad
4. Shashi Agarwal, W/o Sri Gopal Kumar Agarwal, R/o Flat No. 8EH,
Manikaran Apartment, 3B, Rammohan Mullick Garden Lane, P.O.-
Beleghata, P.S.-Beleghata, Dist.-Kolkata, West Bengal
5. Rekha Goyal, W/o Sri Pawan Kumar Goyal, R/o Near Canara Bank,
S.K. Sanitary, Main Road Saraidhela, P.O.-Saraidhela, P.S.-Saraidhela,
Dist.-Dhanbad
6. General Public of Temple Road, Purana Bazar, P.O.-Dhanbad, P.S.-
Dhansar, Dist.-Dhanbar Respondents

CORAM: HON'BLE MR. JUSTICE GAUTAM KUMAR CHOUDHARY

For the Appellant : Mr. Shashank Shekhar, Advocate
For Respondents : Mr. J.K. Pasari, Advocate

Oral Order

04 / Dated : 17.09.2025

I.A. No. 6555 of 2025

1. The appellant has preferred the instant appeal under Section 384 of the Indian Succession Act, 1925 against the judgment dated 03.10.2024 passed by learned Commercial Court, Dhanbad in Succession Case No. 22 of 2022, whereby and whereunder, the succession certificate has been directed to be issued in favour of respondent No.1.
2. Heard learned counsel for the appellant in this interlocutory application (I.A. No. 6555 of 2025) which has been filed under Section 5 of the Limitation Act for condonation of delay of 124 days in preferring the instant misc. appeal.
3. It is submitted by learned counsel for the appellant that against judgment and order, initially the appellant had preferred Succession (Revocation) Case No.42 of 2024 which was rejected on 05.03.2025

and only after the said rejection, the present Misc. Appeal was filed on 06.05.2025. It is further submitted that the delay, if any, was not intentional and occurred because of preferring the said revocation case.

4. Learned counsel for the respondents has contested the claim for condonation of delay. It is submitted that the affidavit was sworn on 16.04.2025, however, after a lapse of 20 days, present Misc. Appeal was filed, but no explanation was offered for the same.
5. Having considered the submissions advanced on behalf of both sides, I find that sufficient reasons have been assigned for condoning the delay.

Accordingly, the prayer made for condonation of said delay in preferring the instant Misc. Appeal is allowed.

The aforesaid I.A. stands disposed of.

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6. The facts are not in dispute.
7. The question of law raised in the present Appeal is “If there was an embargo in issuing a Joint succession certificate?”
8. It is contended by the learned counsel for the appellant that the instant succession case was filed for issuance of Succession Certificate under Section 372 of the Indian Succession Act with regard to estate of the deceased – Late Ratan Lal Gupta @ Ratan Lal Mittal @ Ratan Lal Agarwal.
9. Appellant and the respondents are admittedly the sons and daughters of Late Ratan Lal Agarwal. A joint application for issuance of succession certificate was filed. However, learned Trial Court has directed for issuance of Succession Certificate only in the name of Respondent No.1 solely on the ground that although all the applicants were entitled to get their share in the estate of the deceased, however, since majority of the applicants, particularly, 2 to 6 had filed an application with regard to grant of Succession Certificate in favour of any of them, except applicant No.1, so Succession Certificate was directed to be issued in favour of applicant no.2, namely, Naresh Kumar Agarwal.
10. It is submitted on behalf of the Petitioner, that there is no bar for issuance of Joint succession Certificate. Specific reliance is placed on **AIR 1937 Rangoon 336 (Daw Ohn Bwint & Ors. Vs. Daw Saw May**

& Anr.), wherein the issuance of joint succession certificate was challenged, the same was dismissed. Further in the case of **M/s Kone International (P) Ltd. & Ors. Vs. Syndicate Bank (AIR 1995 Punjab and Haryana 16)**, a joint succession certificate was directed to be issued and it was held that it was not necessary that it should be issued only in favour of one person. Succession Certificate can be issued jointly in favour of many claimants.

11. It is submitted by learned counsel for the respondents that it was the joint consent of all the applicants except the present appellant for grant of succession certificate in the account of Respondent No.1/Applicant No.2 (herein), subject to the condition that he will execute an indemnity bond of Rs.68 Lakhs, which is the estimated amount of the price of the share which is to be encashed. The said indemnity bond has already been filed before the learned Trial Court and in any event, if any dispute arises, he will be liable to pay the said amount to the Court.
12. Having considered the submissions advanced on behalf of both sides, a close reading of the legislative scheme as provided under chapter-X of the Succession Act, 1925 that there is no embargo to issuance of joint succession certificate which will be evident from Section 373 (4) :

“When there are more applicants than one for a certificate, and it appears to the Judge that more than one of such applicants are interested in the estate of the deceased, the Judge may, in deciding to whom the certificate is to be granted, have regard to the extent of interest and the fitness in other respects of the applicants.”

13. From the above provision it is apparent that when all the parties are equally entitled to the succession certificate, it cannot be issued to one, to the exclusion of others. To interpret the provision that it proscribes joint succession certificate, will be against the legislative scheme to grant succession certificate to the extent of interest and fitness. The provision for taking security while issuing succession certificate under Section 373 (3) & (4) is for such cases where there are multiplicity of persons who are entitled to the succession certificate, and it will not be convenient for issuing succession certificate. It is for the reason that in **Daw Ohn Bwint; M/s Kone International (P) Ltd.** (supra) and

Ritinbhai Dilkhusbhain Baxi Vs. Bidhin Manharbhai Baxi, 2012 Supreme (Guj) 494 it has been held that joint succession certificate can be issued.

14. In the above stated position of law, the impugned order refusing to issue joint succession certificate, on the ground that the provisions do not permit grant of joint succession is not correct position of law. Since all were entitled to equal share in the debt and security in the name of their father, joint succession certificate ought to have been issued in the name of all.
15. All the six applicants namely, Suresh Kumar Agarwal, Naresh Kumar Agarwal, Asha Agarwal, Nirmala Agarwal, Shashi Agarwal, Rekha Goyal are entitled to issuance of equal share in the debt and security of deceased Late Ratan Lal Gupta @ Ratan Lal Mittal @ Ratan Lal Agarwal. Their application for issuance of succession certificate with respect to share certificates (Ext.-2) issued in the name of deceased-Late Ratan Lal Gupta @ Ratan Lal Mittal @ Ratan Lal Agarwal is accordingly allowed.
16. Since the succession certificate has already been issued in the name of Respondent No.1, Naresh Kumar Agarwal, on payment of stamp duty amount of Rs 4,06,400/-, therefore this succession certificate be modified to be jointly issued in the name of all the applicants. Modification be made in red ink on the said succession certificate, by referring to the order passed by this Court.
17. Respondent no. 1 Naresh Kumar Agarwal is appointed as receiver to receive the share certificate from the Trial Court, and he will transmit it to the Company (Kotak Mahindra Bank Limited) along with the joint succession certificate for its encashment by sale. On sale of the shares, the Company will issue separate cheque/ draft in the name of each of the applicants in equal share, after completing the tax formalities. The cheques will be directly sent to the Court of Civil Judge (Sr. Division)-I, Commercial Court, Dhanbad. After receipt of the said cheque, the same will be delivered to each of the applicants after clearing the court fees. In the event of court fees having been paid by anyone of the applicants, the other applicants will pay him the share of

court fees, after which the cheque will be handed to him after due verification.

Impugned order is set aside. This Misc. Appeal is accordingly allowed.

Pending I.A., if any, also stands disposed of.

(Gautam Kumar Choudhary, J.)

17th September, 2025
AKT/Satendra