

READING MATERIAL

ON

SUCCESSION CERTIFICATE

Made Under Guidance of

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Principal District & Sessions Judge (Durg)

(For Reference and Training Purposes)

Prepared for internal circulation among judicial officers and staff

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Note:—Although utmost care has been taken, no one is infallible—this questionnaire may contain inadvertent errors.)

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Chapter 1

Succession Certificates under the Indian Succession Act, 1925: Statutory Framework and Judicial Interpretation

Part I. Introduction

Part X of the Indian Succession Act, 1925 provides a self-contained code regulating the grant of succession certificates in respect of debts and securities of a deceased person. The legislative object is facilitative rather than declaratory: it enables the collection of certain monetary claims without compelling parties to institute a full-fledged civil suit for declaration of title. The certificate serves as an indemnity to debtors and authorizes the holder to receive specified sums, but it does not conclusively determine heirship or ownership rights.

Sections 370, 371, and 372 constitute the principal provisions governing restrictions on grant, jurisdiction of courts, and procedural requirements for obtaining such certificate. Judicial decisions have consistently emphasized the summary and limited nature of proceedings under these provisions.

Part II. Section 370: Restriction on Grant of Certificates

A. Interplay with Letters of Administration

Section 370(1) places an important restriction on the grant of a succession certificate. It prohibits the issuance of a certificate in respect of any debt or security for which a right is required to be established by letters of administration under Section 212 of the Act. The rationale is that where the law mandates formal proof of representative title through probate or letters of administration, the simplified mechanism of a succession certificate cannot be invoked as a substitute.

However, the proviso to Section 370 carves out an exception in favour of persons claiming entitlement to the effects of a deceased Indian Christian. In such cases, the mere fact that rights could be established through letters of administration does not bar the grant of a certificate in respect of debts or securities. This reflects the legislative intent to avoid unnecessary procedural rigidity in appropriate cases.

B. Meaning and Scope of "Security"

Relevant Case Law:

1. *State Bank of India v. Netai Ch. Patel*, 1981 SCC OnLine Cal 68
2. *Ranchoddas Banatwala, In re*, 1976 Mah LJ 636
3. *Sunanda Sarma v. State of W.B.*, 2008 SCC OnLine Cal 96
4. *Vimala Devi v. Shobha Walia*, 2006 SCC OnLine Chh 28

Section 370(2) defines the term "security" in an exhaustive manner. It includes promissory notes, debentures, stock or other securities of the Central or State Government; shares, stock or debentures of companies or incorporated institutions; securities issued by local authorities; and any other instrument notified by the State Government in the Official Gazette.

The statutory precision in defining "security" stands in contrast to the absence of a definition for the term "debt." Courts have therefore interpreted "debt" in its ordinary legal sense. In *State Bank of India v. Netai Ch. Patel*, 1981 SCC OnLine Cal 68, the State Bank of India case, the Calcutta High Court observed that a debt signifies a sum certain due from a debtor to a creditor, and that ascertainability or ready calculability of the amount is an essential feature.

Similarly, in *Ranchoddas Banatwala, In re*, 1976 Mah LJ 636, it was held that "debt" does not encompass movable property other than a specific or

ascertained sum of money. The certificate mechanism is therefore confined to liquidated monetary claims.

Courts have further clarified that succession certificates cannot be granted in respect of property falling outside the statutory definition. In *Sunanda Sarma v. State of W.B.*, 2008 SCC OnLine Cal 96, it was reiterated that the certificate is confined strictly to debts and securities and cannot extend to other kinds of property. In *Vimala Devi v. Shobha Walia*, 2006 SCC OnLine Chh 28, the

Chhattisgarh High Court held that ornaments kept in a bank locker do not fall within the meaning of “debt” or “security,” and therefore no certificate can be granted merely to obtain access to such locker.

C. Enforceability of Succession Certificate

Relevant Case Laws

1. *Pramila Dhanraj Gaidhane v. Life Insurance Corporation of India*, 2004 SCC OnLine Bom 37

A succession certificate does not possess the status of a decree. In *Pramila Dhanraj Gaidhane v. Life Insurance Corporation of India*, 2004 SCC OnLine Bom 37, involving the Life Insurance Corporation of India, it was held that execution proceedings cannot be initiated on the basis of a succession certificate. If payment is refused by the debtor, the certificate-holder must institute a substantive suit for recovery.

Thus, the certificate operates as prima facie authority to collect specified amounts but does not confer coercive enforceability through execution proceedings.

Part III.

Section 371: Jurisdiction to Grant Certificate

Relevant Case Laws

1. *Rameshwari Devi v. Raj Bali Shah*, 1987 SCC OnLine All 568
2. *Madhuribai Mohan Walke v. Annapurnabai Keshao Walke*, 2003 SCC OnLine Bom 398

Section 371 delineates the jurisdictional competence of the District Judge. Ordinarily, the District Judge within whose jurisdiction the deceased resided at the time of death is empowered to grant the certificate. Only in cases where the deceased had no fixed place of residence does the alternative criterion apply—namely, the District Judge within whose jurisdiction any part of the deceased's property is found.

In *Rameshwari Devi v. Raj Bali Shah*, 1987 SCC OnLine All 568, and in *Madhuribai Mohan Walke v. Annapurnabai Keshao Walke*, 2003 SCC OnLine Bom 398, it was clarified that the alternative jurisdiction based on location of property is attracted solely when the deceased had no fixed residence at the time of death. The statutory scheme thus establishes a primary rule (residence-based jurisdiction) and a conditional fallback.

Part IV. Section 372: Application and Procedural Requirements

A. Form and Contents of Petition

Section 372 prescribes that an application must be made by petition signed and verified in accordance with the Code of Civil Procedure, 1908. The petition must contain material particulars including:

- The time of death of the deceased;
- The ordinary residence at the time of death;

- Details of family members and near relatives;
- The legal basis of the petitioner's claim;
- The absence of impediment under Section 370 or other provisions; and
- Particulars of the debts and securities for which the certificate is sought.

Sub-section (2) provides that false verification attracts penal liability under Section 198 of the Indian Penal Code, 1860, thereby ensuring procedural integrity.

B. Nature of Proceedings: Summary and Non-Conclusive

Relevant Case Laws

1. *Rameshchand Shrivastava v. Shakuntala Devi*, 2000 SCC OnLine MP 310

2. *Sandhya Banerjee v. Shyama Banerjee*, 2010 SCC OnLine Cal 1355

Proceedings under Section 372 are summary in nature. In *Rameshchand Shrivastava v. Shakuntala Devi*, 2000 SCC OnLine MP 310, it was held that the determination of entitlement in succession certificate proceedings does not operate as res judicata and remains subject to adjudication by a competent civil court in a regular suit.

In *Sandhya Banerjee v. Shyama Banerjee*, 2010 SCC OnLine Cal 1355, the Court observed that the certificate does not confer title upon the holder; rather, it functions akin to a nomination, enabling receipt of money on behalf of the true heirs. The Supreme Court in *Banarsi Dass v. Teeku Dutta*, (2005) 4 SCC 449, further explained that the grant of a certificate is intended to afford protection to debtors and to facilitate collection of debts without determining complex questions of succession.

Even where multiple applicants exist, courts have indicated that ordinarily only one certificate should be issued, though distribution of amounts received remains governed by substantive succession law.

Part V. Nomination, Personal Law, and Succession Certificate

Relevant Case Laws

1. *Vidhyadhari v. Sukhrana Bai*, (2008) 2 SCC 238,
2. *Shipra Sengupta v. Mridul Sengupta*, (2009) 10 SCC 680

Succession certificate proceedings do not override personal law principles. In *Vidhyadhari v. Sukhrana Bai*, (2008) 2 SCC 238, the Supreme Court held that a legally wedded wife is not automatically entitled to exclusion of a second de facto wife and her children where nomination exists in favour of the latter.

Furthermore, in *Shipra Sengupta v. Mridul Sengupta*, (2009) 10 SCC 680, the Court clarified that nomination in respect of terminal benefits merely indicates the person authorized to receive payment; it does not confer beneficial ownership. The nominee acts as a trustee for the rightful heirs.

Thus, even after issuance of a succession certificate or payment to a nominee, substantive rights must be determined in accordance with the applicable law of succession.

Sections 370 to 372 of the Indian Succession Act, 1925 establish a carefully circumscribed mechanism for the collection of debts and securities of a deceased person. The certificate is restricted to liquidated monetary claims and statutorily defined securities; it does not extend to general movable or immovable property. Jurisdiction is primarily determined by the deceased's ordinary residence, and proceedings are summary in character. The consistent judicial position is that a succession certificate neither confers title nor operates as a decree. It is an instrument of indemnity and procedural convenience,

leaving substantive questions of heirship and beneficial entitlement to be resolved in appropriate civil proceedings.

Chapter 2

Procedure, Effect, and Incidental Powers Relating to Succession Certificates (Sections 373–380) under the Indian Succession Act, 1925

Part I. Section 373: Procedure on Application and Nature of Adjudication

Section 373 of the Indian Succession Act, 1925 prescribes the procedural framework to be followed by the District Judge upon receipt of an application under Section 372. Where the Judge is satisfied that there is ground for entertaining the application, a date for hearing must be fixed. Notice of the application is required to be served upon persons who, in the opinion of the Judge, deserve special notice. Additionally, public notice must be displayed in a conspicuous part of the courthouse and published in such other manner as the Judge considers appropriate, subject to rules framed by the High Court.

Upon the date fixed for hearing, the Judge proceeds to determine, in a summary manner, the right to the certificate. The summary character of the proceeding is a defining feature of succession certificate jurisprudence. The inquiry is not designed to resolve complex or intricate disputes of title but to ascertain prima facie entitlement for the limited purpose of facilitating collection of debts and securities.

Sub-section (2) mandates that where the Judge concludes that the right belongs to the applicant, an order for grant of certificate shall follow. However, sub-section (3) confers discretion upon the Judge in situations involving complicated questions of law or fact. Even if such questions appear too intricate for summary determination, the court may grant the certificate to the person who appears to have prima facie the best title. This provision underscores the provisional and facilitative nature of the certificate.

Where multiple applicants exist, sub-section (4) authorizes the Judge to consider the extent of interest and the overall fitness of the applicants in deciding to whom the certificate should be granted. The emphasis remains on administrative convenience and protection of the estate rather than final adjudication of substantive inheritance rights.

Part II. Res Judicata and Finality

Relevant Case Laws

1. *Madhvi Amma Bhawani Amma v. Kunjikutty Pillai Meenakshi Pillai*, (2000) 6 SCC 301
2. *Ashish Kumar v. Leela Bai*, 2002 SCC OnLine MP 83
3. *Nirmala Bai v. Nityagopal*, 2008 SCC OnLine MP 379
4. *Neeraj Kumar Goyal v. Krishan Lal Arora*, 2006 SCC OnLine Utt 6
5. *A. Sridhar v. A. Adivaralaxmi*, 1996 SCC OnLine AP 252

The decision rendered under Section 373 does not operate as res judicata in subsequent civil proceedings. In *Madhvi Amma Bhawani Amma v. Kunjikutty Pillai Meenakshi Pillai*, (2000) 6 SCC 301, the Supreme Court held that a decision granting or refusing a succession certificate does not bar re-agitation of the same issue in a regular civil suit. By virtue of Section 387 of the Act, such determinations fall outside the ambit of Explanation VIII to Section 11 of the Code of Civil Procedure, 1908.

Similarly, in *Ashish Kumar v. Leela Bai*, 2002 SCC OnLine MP 83, it was observed that while an order under Section 373 is final for the purposes of proceedings under the Succession Act, it remains open to challenge in a competent civil court. The certificate does not conclusively determine title.

In *Nirmala Bai v. Nityagopal*, 2008 SCC OnLine MP 379, it was reiterated that the succession court may confine itself to determining the right to the certificate without adjudicating upon the ultimate title or character of the claim.

The distinction between succession certificate proceedings and inheritance adjudication was further elucidated in *Neeraj Kumar Goyal v. Krishan Lal Arora*, 2006 SCC OnLine Utt 6.

The summary nature of proceedings does not require their suspension merely because another suit is pending. In *A. Sridhar v. A. Adivaralaxmi*, 1996 SCC OnLine AP 252, it was held that proceedings for grant of a succession certificate need not await the final decision of a pending declaratory suit concerning marital status.

Part III. Section 374: Contents and Effect of Certificate

Relevant Case Laws

1. Sawarni v. Inder Kaur, (1996) 6 SCC 223

Section 374 prescribes that when a certificate is granted, the District Judge must specify therein the debts and securities to which it relates. The certificate may empower the holder to receive interest or dividends, to negotiate or transfer securities, or to exercise both powers.

The specification of debts and securities ensures that the authority of the certificate-holder remains circumscribed. In *Sawarni v. Inder Kaur*, (1996) 6 SCC 223, the Supreme Court observed that unless set aside in accordance with law, a succession certificate and the rights flowing therefrom cannot be ignored in adjudicating claims relating to the deceased's property. However, such recognition does not elevate the certificate to the status of conclusive proof of title.

Part IV. Section 375: Requisition of Security from Grantee

Section 375 empowers—and in certain cases mandates—the District Judge to require the proposed grantee to furnish a bond with sureties or other sufficient security. This bond ensures accountability for rendering accounts of debts and securities received and indemnifies persons who may ultimately be found entitled.

Where the Judge proceeds under Section 373(3) or 373(4), the furnishing of security is obligatory. In other cases, it remains discretionary. Sub-section (2) further authorizes assignment of the bond to a proper person upon cause shown, enabling such person to sue thereon as trustee for all interested parties. This provision reinforces the trustee-like obligations of the certificate-holder and serves as a safeguard against misuse.

Part V. Section 376: Extension of Certificate

Section 376 permits extension of a certificate to debts or securities not originally specified therein. Upon extension, the newly included debts or securities are treated as if originally specified. The court may also confer additional powers and require fresh or further security in the same manner as upon original grant.

The duty of the certificate-holder remains fiduciary. In *Uma Rani Sett v. Dipali Rani Sett*, 2005 SCC OnLine Cal 599, it was held that grant of a succession certificate in favour of a co-sharer does not vest title exclusively in that person; the holder is bound to distribute the assets in accordance with the shares prescribed by law.

Part VI. Sections 377 and 378: Form and Amendment of Certificate

Section 377 requires that certificates and their extensions conform, as nearly as circumstances permit, to the prescribed forms in Schedule VIII. This promotes uniformity and procedural clarity.

Section 378 empowers the District Judge to amend a certificate in respect of powers relating to securities. If the original certificate confers limited authority—for instance, to receive dividends but not to transfer securities—the court may, upon application and sufficient cause shown, amend the certificate to confer additional or substituted powers contemplated under Section 374. These provisions illustrate the flexible and administrative character of succession certificate proceedings.

Part VII. Section 379: Mode of Collecting Court Fees

1. Rakhi v. Ist Addl. Distt Judge, 1999 SCC OnLine All 723

Section 379 prescribes the procedure for collecting court fees under the Court-fees Act, 1870. An application must be accompanied by a deposit equivalent to the prescribed court fee. Upon grant of the certificate, the deposit is utilized for purchase of the requisite stamp; any surplus is refunded.

In *Rakhi v. Ist Addl. Distt Judge, 1999 SCC OnLine All 723*, it was clarified that the provision is procedural in nature and intended to regulate collection of court fees. The use of the term “shall” does not render non-compliance fatal to the application; the provision is directory rather than mandatory in the strict sense.

Part VIII. Section 380: Local Extent of Certificate

Section 380 provides that a succession certificate granted under Part X shall have effect throughout India. The provision also extends recognition to

certificates granted in Burma, Aden, or territories constituting Pakistan prior to their separation, insofar as proceedings were pending at the relevant date.

The pan-Indian validity of the certificate reflects its character as a statutory authorization operative across jurisdictions within the country.

Sections 373 to 380 collectively delineate the procedural mechanics, incidental safeguards, and territorial scope of succession certificates under the Indian Succession Act, 1925. The statutory scheme emphasizes summary adjudication, provisional entitlement, and fiduciary responsibility of the certificate-holder. Judicial interpretation consistently maintains the distinction between facilitative authority to collect debts and substantive adjudication of inheritance rights.

The succession certificate thus operates as a limited statutory instrument—administrative in character, indemnificatory in purpose, and always subject to the ultimate determination of rights by a competent civil court.

Chapter–3

Effect, Revocation, Appeal, and Jurisdiction under Part X (Sections 381–388) of the Indian Succession Act, 1925

Part I. Section 381: Effect and Indemnity of Succession Certificate

Relevant Case Laws

1. *Madhvi Amma Bhawani Amma v. Kunjikutty Pillai Meenakshi Pillai*, (2000) 6 SCC 301
2. *State of Chhattisgarh v. Dhirjo Kumar Sengar*, (2009) 13 SCC 600
3. *C.K. Prahalada v. State of Karnataka*, (2008) 15 SCC 577
4. *Sawarni v. Inder Kaur*, (1996) 6 SCC 223
5. *Shashikala A. Kisan Awad v. Central Railway*, 2005 SCC OnLine Bom 885
6. *Mylarapu Mallamma v. Mylarapu Saroja*, 2005 SCC OnLine AP 269

Section 381 of the Indian Succession Act, 1925 defines the legal effect of a succession certificate. Subject to the provisions of Part X, the certificate is conclusive as against persons owing debts or liable on the securities specified therein. It affords full indemnity to such persons in respect of payments made or dealings had in good faith with the certificate-holder, even if there has been a contravention of Section 370 or other procedural irregularity.

The provision primarily protects debtors. Once payment is made in good faith to the holder of a validly issued certificate, the debtor is discharged from liability, irrespective of subsequent disputes among heirs. The expression “good faith” has been judicially interpreted in *Madhvi Amma Bhawani Amma v. Kunjikutty Pillai Meenakshi Pillai*, (2000) 6 SCC 301, to mean honest intention without notice of defect or adverse claim.

However, the conclusive nature of the certificate is limited to indemnification of debtors and does not determine substantive rights inter se between claimants. In *State of Chhattisgarh v. Dhirjo Kumar Sengar*, (2009) 13 SCC 600, the Supreme Court clarified that the grant of a succession certificate does not establish any legal relationship between the certificate-holder and the deceased. Similarly, in *C.K. Prahalada v. State of Karnataka*, (2008) 15 SCC 577, it was reiterated that obtaining a succession certificate does not make the holder the owner of the property; the court granting the certificate does not adjudicate title.

Nonetheless, unless set aside in accordance with the Act, the certificate and rights flowing therefrom cannot be ignored. In *Sawarni v. Inder Kaur*, (1996) 6 SCC 223, it was held that the evidentiary value of a succession certificate cannot be brushed aside in proceedings concerning title. Public authorities are bound to honour it. In *Shashikala A. Kisan Awad v. Central Railway*, 2005 SCC OnLine Bom 885, it was held that the Union of India is duty-bound to accept a succession certificate issued by a competent court.

The conclusive effect under Section 381 remains subject to revocation under Section 383, as observed in *Mylarapu Mallamma v. Mylarapu Saroja*, 2005 SCC OnLine AP 269.

Part II. Section 382: Recognition of Certificates Granted in Certain Foreign or Former Territories

Section 382 provides that certificates granted by Indian representatives in foreign States, or granted in certain territories such as former Part B States or Jammu and Kashmir under specified circumstances, shall have the same effect in India as certificates granted under Part X, provided they are duly stamped under the Court-fees Act, 1870.

This provision ensures continuity and uniform recognition of certificates issued under comparable authority in specified jurisdictions.

Part III. Section 383: Revocation of Certificate

A succession certificate may be revoked on specific statutory grounds enumerated in Section 383. These include:

1. Substantive defect in proceedings;
2. Fraudulent procurement through false suggestion or concealment of material facts;
3. Untrue allegation of essential fact, even if made inadvertently;
4. Subsequent circumstances rendering the certificate useless or inoperative;
5. A decree or order of a competent court affecting the debts or securities in question.

Revocation safeguards the integrity of the process and ensures that certificates do not operate contrary to justice or subsequent judicial determinations.

Part IV. Section 384: Appeal

Relevant Case Laws

1. *Gaudiya Mission v. Shobha Bose*, (2008) 17 SCC 714
2. *Brij Bihari Mishra v. Vijai Shanker Mishra*, 1991 SCC OnLine All 187
3. *Shyamali Middy v. Anjana*, 2004 SCC OnLine Cal 23
4. *Surya Begum v. Amina Ahmed*, 2007 SCC OnLine Gau 581

Section 384 confers a statutory right of appeal to the High Court against orders granting, refusing, or revoking a certificate. The appellate court may declare the person entitled and direct grant in supersession of any earlier

certificate. The appeal must be filed within the limitation period prescribed under the Code of Civil Procedure, 1908.

In *Gaudiya Mission v. Shobha Bose*, (2008) 17 SCC 714, the Supreme Court held that an appeal under Section 384 is a regular appeal in which questions of fact and law are open for consideration.

However, not every order is appealable. In *Brij Bihari Mishra v. Vijai Shanker Mishra*, 1991 SCC OnLine All 187, it was held that no appeal lies against an order refusing to revoke a certificate.

Where powers are exercised by an inferior court invested under Section 388, the appeal lies to the District Judge and not to the High Court, as clarified in *Shyamali Middya v. Anjana*, 2004 SCC OnLine Cal 23.

Further, in *Surya Begum v. Amina Ahmed*, 2007 SCC OnLine Gau 581, it was held that rejection of a review application does not attract the doctrine of merger, and the original order may still be challenged in appeal.

Part V. Section 385: Effect of Previous Grant of Probate or Certificate

Section 385 provides that a certificate granted under Part X is invalid if there exists a prior valid grant of probate, letters of administration, or a succession certificate in respect of the estate, and such prior grant remains in force. This provision prevents multiplicity of representative authority over the same estate.

Part VI. Section 386: Validation of Payments Made in Good Faith

Section 386 protects persons who, in ignorance of revocation or invalidity, have made payments to the holder of a superseded or invalid certificate. Such payments are deemed valid as against claims under any subsequent

certificate. The section reinforces the indemnificatory object of Part X by shielding bona fide debtors from double liability.

Part VII. Section 387: Effect of Decisions and Liability of Certificate Holder

Relevant Case Laws

1. *Md. Hafeez v. Md. Abker*, (1982) 2 AP LJ 50 (SN)
2. *Joginder Pal v. Indian Red Cross Society*, (2000) 8 SCC 143

Section 387 expressly declares that no decision under Part X shall bar trial of the same question in any suit or other proceeding between the parties. The words “in any other proceeding” have been interpreted in *Md. Hafeez v. Md. Abker*, (1982) 2 AP LJ 50 (SN), to mean proceedings under laws other than the Succession Act.

In *Joginder Pal v. Indian Red Cross Society*, (2000) 8 SCC 143, it was held that findings in succession certificate proceedings do not operate as res judicata, even where evidence was recorded.

Moreover, Section 387 preserves the liability of the certificate-holder to account to the person lawfully entitled. The certificate does not absolve the holder from fiduciary obligations.

Part VIII. Section 388: Investiture of Inferior Courts

Section 388 empowers the State Government to invest courts inferior in grade to a District Judge with concurrent jurisdiction under Part X. Such courts may exercise the powers of a District Judge within their local limits.

Appeals from orders of such inferior courts lie to the District Judge, whose order is final subject to provisions regarding revision, reference, or review under the Code of Civil Procedure. The District Judge also retains supervisory authority

to withdraw or transfer proceedings. This decentralization promotes accessibility while maintaining appellate supervision and procedural safeguards.

Sections 381 to 388 of the Indian Succession Act, 1925 complete the statutory architecture governing succession certificates. The provisions collectively:

- Confer indemnity and conclusive effect vis-à-vis debtors;
- Preserve substantive rights for adjudication in regular suits;
- Provide mechanisms for revocation and appeal;
- Protect bona fide payments; and
- Enable concurrent jurisdiction of inferior courts.

The consistent judicial interpretation affirms that the succession certificate is a procedural instrument designed to facilitate realization of debts and securities while preserving the ultimate determination of rights in appropriate civil proceedings. It neither confers title nor conclusively settles inheritance disputes, but operates within a carefully circumscribed statutory sphere balancing convenience, indemnity, and justice.

Sections 381 to 390 of the **Indian Succession Act, 1925** deal comprehensively with the effect, recognition, revocation, appeal, and ancillary matters relating to succession certificates.

Under Section 381, the certificate granted by a District Judge is conclusive with respect to the debts and securities specified therein as against persons owing such debts or liable on such securities. It affords full indemnity to those who make payments or enter into dealings in good faith with the certificate holder, even if there has been a contravention of Section 370. However, the legal position is well settled that a succession certificate does not determine title or ownership. In *State of Chhattisgarh v. Dhirjo Kumar Sengar*, (2009) 13 SCC 600, the Supreme Court held that the grant of a succession certificate to an heir or nominee does not establish any relationship between the certificate holder

and the deceased. Likewise, in *C.K. Prahalada v. State of Karnataka*, (2008) 15 SCC 577, it was held that by obtaining a succession certificate, a person does not become the owner of the property, since the court granting the certificate does not adjudicate legal title. At the same time, unless the evidentiary value of the certificate is displaced in appropriate proceedings, it cannot be ignored in deciding title to property, as observed in *Sawarni v. Inder Kaur*, (1996) 6 SCC 223. The expression “good faith” occurring in this context was explained in *Madhvi Amma Bhawani Amma v. Kunjikutty Pillai Meenakshi Pillai*, (2000) 6 SCC 301. Further, in *Mylarapu Mallamma v. Mylarapu Saroja*, 2005 SCC OnLine AP 269, it was clarified that though the certificate is conclusive against debtors under Section 381, it remains liable to revocation under Section 383.

Section 382 recognizes certificates granted or extended by Indian representatives in foreign States and in certain historical contexts, and accords them the same effect in India as certificates granted under this Part, subject to proper stamping under the Court–fees Act, 1870.

Section 383 enumerates the grounds for revocation of a certificate, including substantive defects in the proceedings, fraud, concealment of material facts, untrue allegations essential to the grant, supervening circumstances rendering the certificate inoperative, or where a decree or order of a competent court makes revocation proper.

Section 384 provides for appeals from orders granting, refusing, or revoking a certificate. Such appeals ordinarily lie to the High Court and are in the nature of regular appeals where both questions of fact and law may be urged, as held in *Gaudiya Mission v. Shobha Bose*, (2008) 17 SCC 714. However, no appeal lies against an order refusing to revoke a certificate, as clarified in *Brij Bihari Mishra v. Vijai Shanker Mishra*, 1991 SCC OnLine All 187. Where inferior courts are invested with jurisdiction under Section 388, appeals from their orders lie to the District Judge and not to the High Court, as explained in *Shyamali Middya v. Anjana*, 2004 SCC OnLine Cal 23.

Section 385 renders a certificate invalid where a prior certificate, probate, or letters of administration in respect of the same estate is already in force. Section 386 protects payments and dealings made in good faith with the holder of a superseded or invalid certificate, provided such acts were done in ignorance of its invalidity.

Section 387 declares that decisions under this Part do not operate as res judicata and do not bar the trial of the same question in a regular suit or other proceeding. In *Joginder Pal v. Indian Red Cross Society*, (2000) 8 SCC 143, the Supreme Court held that findings recorded in succession certificate proceedings do not bar fresh adjudication of the same issues in a subsequent suit.

Section 388 empowers the State Government to invest inferior courts with the jurisdiction of a District Judge for purposes of this Part, and once so invested, such courts discharge the functions of a District Judge within their territorial limits. Section 389 mandates surrender of superseded or invalid certificates and prescribes penalties for wilful non-compliance.

Finally, Section 390 extends specified provisions of this Part to certificates granted under Bombay Regulation VIII of 1827. In *Rukhsana v. Nazrunnisa*, (2000) 9 SCC 240, it was held that a succession certificate is not required for claiming compensation sanctioned on account of the death of an employee, since such compensation does not constitute a “debt” or “security” belonging to the deceased within the meaning of the Act.

Chapter–5

Questionnaire

Q1. What is the statutory foundation of Succession Certificate law in India?

Answer. The law governing succession certificates in India is contained in the Indian Succession Act, 1925 (Act No. 39 of 1925), which consolidates the law relating to testamentary and intestate succession. Prior to its enactment, the field was regulated by the Succession Certificate Act, 1889 (Act No. 7 of 1889), which was repealed and substantially incorporated into the 1925 Act. The provisions relating to succession certificates are contained in Part X (Sections 370–390), while Section 214 imposes a statutory bar to the passing of a decree against a debtor of a deceased person unless a succession certificate, probate, or letters of administration is produced. Thus, the Act of 1925 provides a comprehensive statutory mechanism for regulating the realization of debts and securities of a deceased person.

Q2. What is the object and purpose of granting a Succession Certificate?

Relevant Case Laws:

1. *Nirmala Bai v. Nityagopal*, reported in 2009 (2) MPLJ 90

Answer. The object of granting a succession certificate is limited to facilitating the collection of debts and securities due to the deceased and protecting persons liable to pay such debts. It is not intended to determine questions of title or

heirship conclusively. This position has been clearly laid down by the Madhya Pradesh High Court in *Nirmala Bai v. Nityagopal*, reported in 2009 (2) MPLJ 90 (Madhya Pradesh High Court), wherein it was held that the purpose of granting a succession certificate is not to determine ownership of the property of the deceased but merely to decide who is entitled to collect the debts and securities and grant valid discharge. The certificate thus serves a protective and administrative function rather than an adjudicatory one.

Question 3. What is the nature of proceedings for grant of a Succession Certificate, and do they operate as res judicata?

Relevant Case Laws

1. *Ashish Kumar v. Leela Bai*, reported in 2002 (3) MPLJ 110 (MP High Court),
2. *Ramesh Chand v. Shankratan Devi*, reported in 2001 (1) MPLJ 46 (MP High Court)

Answer—Proceedings for grant of a succession certificate are summary in character. The Court is required only to arrive at a prima facie satisfaction regarding entitlement. The determination does not amount to a final adjudication of rights and does not operate as res judicata in subsequent civil proceedings. This principle has been affirmed in *Ashish Kumar v. Leela Bai*, reported in 2002 (3) MPLJ 110 (MP High Court), and in *Ramesh Chand v. Shankratan Devi*, reported in 2001 (1) MPLJ 46 (MP High Court). In these decisions, it was categorically held that succession certificate proceedings are summary in nature, that the certificate does not conclusively determine title, and that a regular civil suit is maintainable for declaration of rights, the decision of the civil court prevailing over the summary order.

Q4. Does the grant of a Succession Certificate confer ownership or legal status upon the holder?

Relevant Case Laws

1. *Nirmala Bai v. Nityagopal*, 2009 (2) MPLJ 90,

Answer: The grant of a succession certificate does not confer ownership of the estate upon the holder nor does it establish status or conclusively prove relationship with the deceased. The holder merely acquires authority to collect debts and securities specified in the certificate and to grant discharge to the debtor. The amount realized must ultimately be distributed among lawful heirs in accordance with substantive succession law. As observed in *Nirmala Bai v. Nityagopal*, 2009 (2) MPLJ 90, the certificate does not determine title but only authorizes collection.

Q5. Can a Succession Certificate be granted in respect of immovable property?

Relevant Case Laws:

1. *Vishalakshi v. Bank of India*, AIR 2006 Ker 255.

Answer: A succession certificate cannot be granted in respect of immovable property. Its scope is confined strictly to debts and securities, which are movable in nature. This legal position was clearly enunciated by the Kerala High Court in *Vishalakshi v. Bank of India*, reported in AIR 2006 Kerala 255, wherein it was held that succession certificate proceedings cannot be invoked for immovable property and are limited only to debts and securities as contemplated under Section 370 of the Act. Accordingly, disputes concerning immovable property must be resolved through appropriate civil suits.

Q6. What is included within the meaning of “security” under Section 370(2) of the Act?

Relevant Case Laws:

1. Vishalakshi v. Bank of India, AIR 2006 Ker 255.

Answer: Section 370(2) of the Indian Succession Act, 1925 defines “security” to include Government promissory notes, Government stock, debentures or shares of a company or incorporated institution, securities issued by local authorities, and other securities declared by the State Government. However, the Act does not define the expression “debt.” Therefore, it is incumbent upon the Court to determine whether the subject matter of the application falls within the ambit of debt or security for the purposes of Part X of the Act. The restriction on the grant of certificate to such categories is reinforced by the reasoning in Vishalakshi v. Bank of India, AIR 2006 Ker 255.

Q7. What is the statutory effect of a Succession Certificate?

Relevant Case Laws:

1. Ashish Kumar v. Leela Bai, 2002 (3) MPLJ 110

Answer: The statutory effect of a succession certificate is provided under Section 381 of the Indian Succession Act, 1925. Payment made in good faith to the holder of a valid certificate affords full indemnity to the debtor, thereby protecting financial institutions and obligors from multiplicity of claims. However, the certificate does not extinguish rival claims nor does it operate as a final adjudication of rights. As reaffirmed in Ashish Kumar v. Leela Bai, 2002 (3) MPLJ 110, the order granting a certificate does not finally determine entitlement.

Q8. Which Court has jurisdiction to grant a Succession Certificate?

Relevant Case Laws:

Answer: Jurisdiction is governed by Section 371 of the Indian Succession Act, 1925. The District Judge within whose jurisdiction the deceased ordinarily resided at the time of death has territorial jurisdiction. In the absence of such residence, jurisdiction may be exercised where any part of the debt or security is located. The State Government may invest inferior courts with the powers of a District Judge for purposes of Part X, and upon such investiture, those courts exercise identical jurisdiction within their notified territorial limits.

Q9. On what grounds can a Succession Certificate be revoked?

Relevant Case Laws:

Answer: Under Section 383 of the Indian Succession Act, 1925, a succession certificate may be revoked if the proceedings were defective in substance, if the certificate was obtained fraudulently by making false suggestions or by concealment of material facts, or if a decree or order of a competent court renders it inoperative. The possibility of revocation further highlights the provisional and non-conclusive character of the certificate.

Q10. What is the overall legal character of a Succession Certificate under Indian law?

Relevant Case Laws:

1. *Nirmala Bai v. Nityagopal*, 2009 (2) MPLJ 90;
2. *Ashish Kumar v. Leela Bai*, 2002 (3) MPLJ 110;
3. *Ramesh Chand v. Shankratan Devi*, 2001 (1) MPLJ 46;
4. *Vishalakshi v. Bank of India*, AIR 2006 Ker 255,

Answer: The succession certificate under the Indian Succession Act, 1925 is essentially a procedural and protective instrument intended to facilitate the realization of debts and securities of a deceased person. Judicial pronouncements, particularly *Nirmala Bai v. Nityagopal*, 2009 (2) MPLJ 90; *Ashish Kumar v. Leela Bai*, 2002 (3) MPLJ 110; *Ramesh Chand v. Shankratan Devi*, 2001 (1) MPLJ 46; and *Vishalakshi v. Bank of India*, AIR 2006 Ker 255, consistently affirm that it neither determines title nor extinguishes competing claims, but merely authorizes collection while leaving substantive rights open to adjudication by a competent civil court

Q11. What are the two kinds of jurisdiction contemplated under the Indian Succession Act, 1925 in relation to Succession Certificates?

Relevant Case Laws:

1. *Savitri Vs Chandrakala* 2005 MPWN 455 (Madhya Pradesh High Court)
2. *Sonwati Tiwari Vs Sarv Sadharan* 2003 (3) MPLJ 512 (MP High Court)

Answer: Under the , two distinct kinds of jurisdiction are contemplated in matters relating to succession certificates: first, the **class or grade of court** competent to

entertain the application; and secondly, the **local or territorial jurisdiction** within which such application is to be presented. Section 371 of the Act provides that the application for a succession certificate shall be made by a signed and verified petition to the District Judge within whose jurisdiction the deceased ordinarily resided at the time of his death. In cases where the deceased had no fixed place of residence at the time of death, the application may be made to the District Judge within whose jurisdiction any part of the property of the deceased is found. The expression “property” in this context refers to debts or securities, and not necessarily to the place of death. The place where the death occurred is not determinative of territorial jurisdiction. This principle has been clearly laid down in reported in *Savitri Vs Chandrakala* 2005 MPWN 455 (Madhya Pradesh High Court), wherein it was held that the place of death is not a relevant factor for determining territorial jurisdiction under Section 371. Further guidance on the question of local jurisdiction is available in , reported in *Sonwati Tiwari Vs Sarv Sadharan* 2003 (3) MPLJ 512 (MP High Court), wherein the Court examined the scope of “ordinary residence” and the situs of property for jurisdictional purposes.

As regards the class or grade of court competent to grant the certificate, Section 371 vests jurisdiction in the District Judge. However, this power is not confined exclusively to the District Court in view of enabling statutory provisions. Under Section 388 of the , the State Government may, by notification in the Official Gazette, invest any court inferior in grade to a District Judge with the powers of a District Judge for the purposes of Part X of the Act. Furthermore, under Section 10(2) of the , the High Court may, by general or special order, authorize a subordinate judge to exercise the powers of a District Judge under Part X of the Act. In exercise of such powers, the Government of Madhya Pradesh issued Notification No. 11-7375-XXI-4-58 dated 01.01.1959, whereby Civil Judges were conferred authority to exercise powers under Part X of the Act. Consequently, in the State of Madhya Pradesh, the jurisdiction to grant succession certificates is presently exercisable by the Court of Civil Judge (Senior

Division), being a court invested with the powers of the District Judge under the statutory scheme.

Q12. What is the Court Fee payable on an application for Succession Certificate?

Relevant Case Laws:

The court fee payable on a succession certificate is governed by the . Under Article 12 of Schedule I to the said Act, ad valorem court fee is payable on the value of the debts and securities specified in the certificate. The fee is calculated proportionately to the amount or value in respect of which the certificate is granted. Thus, unlike ordinary applications where fixed court fee may be payable, a succession certificate attracts court fee calculated on the market value of the debts and securities covered by the certificate. The certificate is issued only upon payment of such prescribed court fee, and the valuation stated in the petition must correspond to the aggregate value of the debts and securities for which authority is sought. In practice, the court determines the payable fee at the stage of final order before issuance of the certificate, ensuring compliance with the statutory mandate under the Court Fees Act, 1870.

Q13. What is the Court Fee payable on a Succession Certificate and what is the procedure for its collection?

Relevant Case Laws:

Usha v. State, AIR 1993 Madhya Pradesh 41

The court fee payable on a succession certificate is governed by Article 12 of Schedule I to the Court Fees Act, 1870. Article 12 prescribes an ad valorem court fee on the amount or value of the debts and securities specified in the certificate. Therefore, the fee is calculated proportionately to the pecuniary value

of the estate in respect of which authority is sought. The levy of ad valorem fee reflects the principle that the certificate confers authority to realize monetary claims and hence must correspond to the financial benefit derived therefrom.

The mode of collection of such court fee is prescribed under Section 379 of the Indian Succession Act, 1925. Section 379 mandates that when an application for succession certificate is presented, the applicant shall deposit in Court a sum equal to the fee payable under Article 12 of Schedule I of the Court Fees Act. If the application is granted, the amount so deposited is utilized, under orders of the Court, for the purchase of judicial stamps representing the requisite court fee on the certificate. In the event the application is rejected or granted only in part, the balance amount is refunded to the applicant. Thus, the statutory scheme ensures both compliance with fiscal requirements and protection of the applicant against excess retention.

Further procedural guidance is found in Rule 44 of the Madhya Pradesh Civil Courts Rules, 1961, which provides that the court fee shall be calculated on the actual amount or value of the property in respect of which the certificate is granted. Consequently, the valuation stated in the petition forms the basis for computation of court fee. Where the applicant seeks a certificate only in respect of a specific portion of the debts or securities, the fee is determined proportionately on that limited portion.

Occasionally, practical difficulties may arise preventing immediate payment of full court fee at the time of presentation of the application. In such circumstances, judicial authority has recognized procedural flexibility. In *Usha v. State*, reported in AIR 1993 Madhya Pradesh 41, it was held that court fee may be permitted to be paid at the stage of issuance of the certificate even if not fully deposited at the initial stage. The Court observed that the essential requirement is that the requisite court fee must be paid before the certificate is actually drawn and issued. This decision harmonizes fiscal compliance with access to justice considerations.

It is also pertinent to note that traditionally the fee is realized through judicial stamps affixed to the certificate. However, in view of administrative modernization, payment may also be made through authorized electronic or

online systems, wherever such facility has been introduced pursuant to statutory or governmental notification. The legal position, therefore, is that ad valorem court fee under Article 12 of Schedule I of the Court Fees Act, 1870 is mandatory, its deposit is regulated by Section 379 of the Indian Succession Act, 1925, its computation is governed by Rule 44 of the Madhya Pradesh Civil Courts Rules, 1961, and flexibility regarding timing of payment has been judicially recognized in *Usha v. State*, AIR 1993 MP 41.

Q14. Who are the necessary parties to an application for grant of Succession Certificate and what are the requirements regarding its form?

Relevant Case Laws:

1. Girija Bai v. State of Madhya Pradesh ILR 2008 MP 1167

In proceedings for grant of a succession certificate, all persons who have an interest in the estate in question must ordinarily be impleaded as non-applicants. Mere impleadment of “general public” does not satisfy the requirements of the principles of natural justice, as interested persons are entitled to notice and an opportunity of hearing. In *Girija Bai v. State of Madhya Pradesh*, reported in ILR 2008 MP 1167, it was held that where a government servant had nominated a person in official service records, grant of a succession certificate without impleading such nominee as a party was not legally sustainable. The Court emphasized that a person having a demonstrable interest in the estate must be afforded participation in the proceedings.

Further, Section 373 of the Indian Succession Act, 1925 confers special power upon the Judge to issue notice of the application to any person who, in the opinion of the Court, ought to be heard. The Court may also, suo motu, direct addition of a necessary party if it considers such presence essential for proper adjudication. Thus, the statutory framework ensures procedural fairness by empowering the Court to secure participation of all materially interested persons.

As regards the form of the application, Schedule II of the Indian Succession Act, 1925 does not prescribe any specific format for an application for succession certificate. However, Section 372 mandates that the application must be signed and verified by the applicant and must contain the particulars specified therein, including details regarding the death of the deceased, ordinary residence, family or other near relatives, the right in which the applicant claims, and the debts and securities in respect of which the certificate is sought. Therefore, although no rigid form is prescribed, the statute clearly delineates the essential contents and verification requirements of the application.

Q15. What is the procedure followed by the Court upon presentation of an application for Succession Certificate?

Relevant Case Laws:

1. Jaskunwar v. Kanchan Bai, 1991 MP 362

Answer: Upon presentation, an application for succession certificate is not to be registered as a Miscellaneous Judicial Case (MJC), since Rule 372 of the Madhya Pradesh Civil Courts Rules, 1961 does not include such applications within the category of MJC matters. Instead, Rule 373 provides that applications under the Indian Succession Act, 1925 shall be entered and maintained in a separate register specifically meant for proceedings under the Act.

The substantive procedure for grant of certificate is contained in Section 373 of the Indian Succession Act, 1925. The Court is required to decide the right to the certificate in a summary manner. Notice must be issued to the respondents or non-applicants, and after affording them reasonable opportunity of being heard, the Judge determines who appears to have the prima facie best title to the certificate.

The scope of inquiry under Section 373 is limited and summary in nature. In *Jaskunwar v. Kanchan Bai*, reported in 1991 MP 362, it was held that proceedings for succession certificate do not involve a full-fledged trial regarding title; rather, they constitute a summary inquiry to determine whether the

applicant is entitled to receive the certificate. The applicant must primarily establish that the deceased has died, specify the relationship with the deceased, and indicate the basis on which he or she claims to be entitled as successor. Whether the applicant is ultimately the legal heir is to be determined according to the personal law applicable to the deceased, but the certificate proceeding itself remains summary and does not finally adjudicate title.

Q16. Whether a Joint Succession Certificate can be granted to more than one applicant?

Relevant Case Laws:

1. Sachidanand v. Bichitranand, AIR 1990 Orissa 172

Answer: Frequently, more than one person applies jointly for grant of a succession certificate. However, Section 373(4) of the Indian Succession Act, 1925 makes it clear that where there are several applicants, the Judge shall consider the extent of interest and fitness of each applicant and may grant the certificate to the person who appears to have the best prima facie title. The language of the provision does not expressly contemplate issuance of a joint certificate in favour of all applicants; rather, it authorizes the Court to select the most suitable among them.

Thus, ordinarily, a joint succession certificate in favour of multiple applicants is not granted as a matter of course. The Court must evaluate comparative suitability and interest before deciding in whose favour the certificate should issue.

In *Sachidanand v. Bichitranand*, AIR 1990 Orissa 172, the Court considered the scope of Section 373(4) and emphasized judicial discretion in selecting the appropriate person entitled to the certificate. Similarly, in *Steel Authority of India*

Ltd. v. Madhusudan Das, reported in 2008 (15) SCALE 39, the Supreme Court observed that proceedings under the Act are summary in character and the Court must grant the certificate to the person having prima facie best entitlement, without conclusively determining inter se rights of parties. These authorities clarify that although multiple persons may claim interest, the certificate is ordinarily granted to the most suitable claimant rather than jointly to all applicants.

Q17. How does the Court deal with cases where multiple applicants claim succession on different and independent grounds?

Relevant Case Laws:

**Vaijanti Bai v. Bandre Janardan, AIR 2007 Bombay 193,
Krishna Pyari v. Govind Mishra, reported in 1992 JLJ 624**

Answer: There are situations where more than one person claims entitlement to a succession certificate, not jointly but on separate and independent grounds. For instance, in respect of the movable property of a deceased person, separate applications may be filed—one based on a will, another on intestate succession, and a third on adoption. In such cases, the Court is not expected to conclusively determine complicated questions of law or fact, as proceedings under the Indian Succession Act, 1925 are summary in nature.

In Krishna Pyari v. Govind Mishra, reported in 1992 JLJ 624, it was held that where the Court experiences difficulty in conclusively determining complex questions of law or fact, it should grant the certificate to the person who appears to have the prima facie best title. The object of succession certificate proceedings is not to finally adjudicate disputed rights but to facilitate collection of debts and securities by the person who appears to have the strongest initial claim.

Where there are multiple applicants and the certificate is granted to one of them on the basis of prima facie superior entitlement, the Court may, under Section 375 of the Indian Succession Act, 1925, require the grantee to furnish security (प्रतिभूति) for the due administration of the debts and securities received. The requirement of security is discretionary and depends upon the facts and circumstances of each case. In this context, Ramchandra Ramratan v. Ramgopal, reported in 1956 SCC OnLine MP 80, is relevant, wherein the Court discussed the circumstances under which security may be demanded while granting a succession certificate.

A further issue arises where the deceased contracted a second marriage during the subsistence of the first valid marriage. In such a case, if the second wife and her children apply for grant of succession certificate, the Court must examine their legal status. It has been held that a second wife, whose marriage is void due to the subsistence of a valid first marriage, is not entitled to a succession certificate as a legally wedded wife. However, children born from such union may, depending upon the applicable personal law, be entitled to claim rights in the estate.

Similarly, where upon the death of a person, his brother applies for a succession certificate and a woman objects claiming to be the deceased's wife, the burden lies upon the woman to establish that she was legally married to the deceased. In *Vaijanti Bai v. Bandre Janardan*, AIR 2007 Bombay 193, it was observed that where the alleged wife failed to discharge the burden of proving her marital status, the brother of the deceased stood on a comparatively better footing and was rightly granted the succession certificate. These decisions demonstrate that the Court, while conducting a summary inquiry, evaluates comparative prima facie entitlement without conclusively determining disputed status, which remains open for adjudication in a regular civil suit.

Q18. What is the prescribed form of a Succession Certificate?

Relevant Case Laws:

Answer: The form of a succession certificate is prescribed in Schedule VIII to the Indian Succession Act, 1925. The Schedule provides the format both for the original certificate and for an extended certificate. While granting the certificate, the Court must substantially adhere to the prescribed format to ensure compliance with statutory requirements.

The certificate may be prepared on plain paper and issued under the seal of the Court after compliance with the necessary formalities, including payment of the requisite court fee under Article 12 of Schedule I of the Court Fees Act, 1870. The essential requirement is that it must clearly specify the debts and securities in respect of which it is granted and the person or persons to whom the authority is conferred. Thus, adherence to Schedule VIII ensures uniformity, clarity, and statutory validity in the issuance of succession certificates

Q19. Under what circumstances can a Succession Certificate be amended, extended, or revoked?

Answer: The provisions relating to amendment, extension, and revocation of a succession certificate are contained in the . Under Section 378, a succession certificate already granted may be amended if necessity is shown and sufficient cause is established. However, it is a settled principle that more than one certificate cannot be granted in respect of the same property. The statutory scheme ensures that multiplicity of certificates relating to identical debts and securities is avoided.

If a person is adversely affected by a previously granted certificate, he may apply for revocation of the same under Section 383 of the . Section 383 enumerates specific grounds for revocation, namely: (a) defective proceedings in substance; (b) fraud in obtaining the certificate; (c) concealment of material

facts; (d) untrue allegations of essential facts, even if made inadvertently; (e) the certificate becoming useless or inoperative; or (f) a decree or order of a competent Court rendering it invalid. An application for revocation must be presented before the same Court which granted the certificate, and all parties to the original proceedings must be impleaded. The Court then conducts a summary inquiry similar to that undertaken at the time of initial grant.

If any property was omitted from inclusion in the original certificate, the proper course is not to issue a fresh certificate but to seek extension of the existing certificate under Section 376 of the . Thus, the Act contemplates amendment or extension of the original certificate rather than parallel grants.

Further, Section 389 of the provides that a revoked or invalid certificate shall, if so directed by the Court, be delivered up to the Court. Although the grant of a succession certificate may be challenged by way of a regular civil suit, it has been held in that the existence of an alternative remedy by way of civil suit is not, by itself, a valid ground to refuse consideration of an application for revocation under Section 383. The statutory remedy of revocation must be independently examined on its own merits.

Q20. What is the appellate remedy against an order granting, refusing, or revoking a Succession Certificate?

Answer: Section 384 of the provides that an appeal shall lie to the High Court from an order of the District Judge granting, refusing, or revoking a succession certificate under Part X of the Act. The order granting or refusing the certificate is treated as an appealable order, and no formal decree is drawn up in such proceedings.

However, under Section 388 of the , the State Government may invest inferior Courts with the powers of a District Judge under Part X. In the State of Madhya Pradesh, by Government Notification No. 11-7375-XXI-B-58 dated 01.01.1959, the powers to grant succession certificates have been conferred

upon the Court of Civil Judge, Class I (now Civil Judge Senior Division). Consequently, in such cases, an appeal from the order of the Civil Judge lies to the District Judge and not directly to the High Court.

Q21. Whether the principle of Res Judicata applies to proceedings relating to Succession Certificates?

Relevant Case Laws:

1. *Joginder Pal v. Indian Red Cross Society* (2000) 8 SCC 143
2. *Madhvi Amma Bhawani Amma v. Kunjikutty Pillai Meenakshi Pillai*, (2000) 6 SCC 301

Answer: The principle of res judicata does not strictly apply to proceedings relating to succession certificates, as such proceedings are summary in nature and do not finally adjudicate title. The grant of a succession certificate merely enables the holder to collect debts and securities and affords indemnity to debtors making payment in good faith. It does not conclusively determine the rights of parties inter se.

In , reported in *Joginder Pal v. Indian Red Cross Society* (2000) 8 SCC 143, the Supreme Court observed that findings recorded in succession certificate proceedings do not operate as res judicata in subsequent civil proceedings. Similarly, in , reported in *Madhvi Amma Bhawani Amma v. Kunjikutty Pillai Meenakshi Pillai*, (2000) 6 SCC 301, it was held that an order granting succession certificate does not bar a regular suit for determination of rights, as the inquiry under Part X of the is only summary and not final in character.

Thus, it is well settled that the doctrine of res judicata has no strict application to succession certificate proceedings, and the rights of parties remain open to adjudication in appropriate civil proceedings.

Q22. Whether Gold or articles pledged with a Bank requires Succession Certificate?

Relevant Case:

1. *Branch Manager, State Bank of India vs Satyabhan Pathal & others AIR 1989 Orissa 236*
2. *Branch Manager, State Bank of India Vs Gudirama Bhaskara & others AIR 1993 AP 337*

Answer: Gold or articles pledged with a Bank do not strictly fall within the expression “debt or security” under Part X of the . Therefore, succession certificate is not mandatory for release of pledged articles. In *Branch Manager, State Bank of India vs Satyabhan Pathal & others AIR 1989 Orissa 236*, and , *Branch Manager, State Bank of India Vs Gudirama Bhaskara & others AIR 1993 AP 337*, it was held that pledged property does not constitute a debt payable in praesenti so as to require a succession certificate.

Q23. Whether Succession Certificate is necessary for claiming articles from a Bank Locker?

Relevant Case Laws:

1. *Sharda Chopra Vs State Bank of India AIR 1997 MP 196*

Answer: Articles kept in a bank locker are not “debts or securities” within the meaning of Part X of the . Although Section 45–ZC of the refers to production of decree or certificate in certain cases, judicial interpretation has clarified the position.

In *Sharda Chopra Vs State Bank of India* AIR 1997 MP 196, it was held that articles lying in a locker do not amount to debt or security and succession certificate cannot be insisted upon; indemnity bond would ordinarily suffice. Reference may also be made to .

Q24. Whether amount deposited in Bank requires Succession Certificate?

Relevant Case Laws:

1. Bank of India Vs Inuganti Satyanarayan AIR 1964 AP 378

Money deposited in a bank constitutes a “debt” payable by the bank to the deceased account holder and therefore requires succession certificate under Section 214 of the . In *Bank of India Vs Inuganti Satyanarayan* AIR 1964 AP 378, it was held that bank deposits are debts and cannot be realized by legal representatives without succession certificate.

Q25. Whether Succession Certificate can be granted for Compassionate Appointment?

Relevant Case Laws:

1. Steel Authority of India Vs. Madhusudan Das 2008 (15) SCALE 39

Succession certificate cannot be granted for compassionate appointment, as such appointment is neither a debt nor a security of the deceased but a concession granted by the employer to mitigate hardship. In *Steel Authority of India Vs. Madhusudan Das* 2008 (15) SCALE 39, the Supreme Court observed that compassionate appointment is not a property right and does not fall within the scope of succession certificate proceedings under Part X of the .

Q26. Whether Succession Certificate is required in Execution Proceedings?

Relevant Case Laws:

1. *Union of India Vs. Raman Iron Foundaries AIR 1974 SC 1265*
2. *Tejraj Vs Rampyari AIR 1938 Nagpur 528*

Where a decree-holder dies before filing execution, the decretal amount partakes the character of a “debt,” and under Section 214(1)(b) of the , the legal representative cannot execute the decree without producing succession certificate.

If death occurs during pendency of execution proceedings, the legal representatives may continue proceedings under Section 146 of the , but realization of the decretal amount may still require production of succession certificate.

In *Union of India Vs. Raman Iron Foundaries AIR 1974 SC 1265*, and *Tejraj Vs Rampyari AIR 1938 Nagpur 528*, it was held that succession certificate is necessary for recovery of a debt due to a deceased decree-holder.

Q27. Whether decree can be passed without producing Succession Certificate in a suit for recovery of debt?

Relevant Case Laws:

1. *Manak Chand Jain v. Smt. Pukhraj Bai, 2008 (2) MPLT 155*

Answer: Where a legal representative files a suit for recovery of a debt due to the deceased without producing a succession certificate, the Court may pass a decree; however, execution of such decree cannot be permitted until succession certificate is produced as required under Section 214 of the Indian Succession Act, 1925.

In *Manak Chand Jain v. Smt. Pukhraj Bai*, 2008 (2) MPLT 155, it was held that although decree may be passed in favour of the legal representative, execution of the decree for realization of the debt is barred unless succession certificate is produced.

Q28. Whether Rent, Revenue and Mesne Profits fall within the definition of "Debt"?

Relevant Case Laws:

1. *Narayanaswami Naidu v. Chellammal*, 1970 (2) MLJ 633

Rent, land revenue and mesne profits do not fall within the meaning of "debt" under Section 214 of the Indian Succession Act, 1925. In *Narayanaswami Naidu v. Chellammal*, 1970 (2) MLJ 633, it was held that arrears of rent and mesne profits are not "debts" within the scope of Section 214.

Q29. Whether Succession Certificate is required for execution of Money Decree?

Relevant Case Laws:

1. *Gokul v. Ramsevak*, AIR 1968 Patna 128

2. *S. Rajalakshmi v. S. Sita Mahalakshmi*, AIR 1976 AP 36

Answer: For execution of a money decree obtained by a deceased decree-holder, succession certificate is required as the decretal amount constitutes a "debt" under Section 214 of the Indian Succession Act, 1925.

However, succession certificate cannot be granted merely for recovery of costs, as costs alone do not constitute a “debt.” In *Gokul v. Ramsevak*, AIR 1968 Patna 128, and *S. Rajalakshmi v. S. Sita Mahalakshmi*, AIR 1976 AP 36, it was held that while decretal money requires succession certificate for execution, costs by themselves do not justify grant of such certificate.

Q30. Whether Succession Certificate can be granted for Retirement Benefits, Insurance and Provident Fund?

Relevant Case Laws:

1. *Smt. Krishna Pyari Bai Dixit v. Govind Mishra*, AIR 1992 MP 145
2. *Rajju Devi v. Nageshwar*, AIR 1965 Allahabad 267

Answer: Retirement benefits and insurance amounts payable to a deceased employee constitute “debts” and succession certificate can be granted for their realization under Part X of the Indian Succession Act, 1925.

In *Smt. Krishna Pyari Bai Dixit v. Govind Mishra*, AIR 1992 MP 145, it was held that retirement dues are recoverable through succession certificate. Likewise, in *Rajju Devi v. Nageshwar*, AIR 1965 Allahabad 267, it was observed that provident fund amount can be realized on the basis of succession certificate.

Q36. Whether amount payable in liquidation proceedings requires Succession Certificate?

Relevant Case Laws:

Viumma v. Official Liquidator, AIR 1999 Karnataka 190

Answer: Amount payable by Official Liquidator to legal representatives of a deceased creditor constitutes a “debt” and succession certificate may be required under Section 214 of the Indian Succession Act, 1925. In *Viumma v. Official Liquidator, AIR 1999 Karnataka 190*, it was observed that such claim is in the nature of debt recoverable from the company in liquidation.

Q37. Whether Succession Certificate is required where decree–holder dies during execution of Arbitration Award or Land Acquisition Award?

Relevant Case Laws:

1. Nalji v. State of Madhya Pradesh, 2019 (2) MPLJ 373

Answer: Execution Court is not competent to decide complicated questions of succession. Where the award amount under land acquisition proceedings is payable to a deceased person, the amount is treated as “debt” under Section 214(2) of the Indian Succession Act, 1925, and succession certificate is necessary.

In *Nalji v. State of Madhya Pradesh, 2019 (2) MPLJ 373*, it was held that compensation awarded in land acquisition proceedings falls within the definition of debt and cannot be realized without succession certificate.

Q38. Whether Security Deposit under Lease Deed requires Succession Certificate?

Relevant Case Laws:

Budhwant Kaur v. Rawat Singh, AIR 1988 Rajasthan 1

Answer: Where security amount is deposited (for example, National Savings Certificates submitted as security for grant of mining lease), such deposit falls within the category of “security” under Section 370 of the Indian Succession Act, 1925 and succession certificate can be granted. In *Budhwant Kaur v. Rawat Singh, AIR 1988 Rajasthan 1*, it was held that National Savings Certificates furnished as security constitute “security” for the purpose of succession certificate.

Q39. Whether Motor Accident Compensation requires Succession Certificate?

Relevant Case Laws:

1. *Bandra v. Ranveer Singh, 2014 ACJ 891 (MP)*
2. *Mohammad Ikram v. Union of India, AIR 1959 Patna 337*

Answer: Compensation awarded under Motor Vehicles Act is not a “debt or security” of the deceased; hence succession certificate is not required. In *Bandra v. Ranveer Singh, 2014 ACJ 891 (MP)*, it was held that legal heirs can claim compensation without producing succession certificate. Similarly, for claim against Railways for loss of goods, succession certificate is not required. In *Mohammad Ikram v. Union of India, AIR 1959 Patna 337*, it was held that such claim is not barred under Section 214 of the Indian Succession Act, 1925.

Q40. Whether Approved Assistance Amount (e.g., organ–related payment) requires Succession Certificate?

Relevant Case Laws:

1. *Beena S. Nair v. P. Rajamma*, AIR 2002 Kerala 378

Answer: Where an amount was sanctioned while the person was alive (e.g., ₹2,70,000 approved for kidney extraction with consent), the amount constitutes a “debt” payable and not compensation. Therefore, succession certificate can be granted.

In *Beena S. Nair v. P. Rajamma*, AIR 2002 Kerala 378, it was held that such approved amount is recoverable as debt and succession certificate may be issued under the Indian Succession Act, 1925. Thus, succession certificate is required where the claim answers the statutory description of “debt or security” under Sections 214 and 370 of the Indian Succession Act, 1925, but not where the claim is purely compensatory in nature.

Q.41 Whether a licence (e.g., saw–mill licence) can be the subject matter of a Succession Certificate?

Relevant Case Laws:

1. *State of M.P. v. Kedia Leather & Liquor Ltd.*, (2003) 7 SCC 389
2. *Har Shankar v. Dy. Excise & Taxation Commissioner*, (1975) 1 SCC 737

Answer: No. In *State of M.P. v. Kedia Leather & Liquor Ltd.*, (2003) 7 SCC 389, and *Har Shankar v. Dy. Excise & Taxation Commissioner*, (1975) 1 SCC 737, the Supreme Court held that a licence is not a property right but merely a privilege granted by the State, governed by statutory conditions and subject to administrative discretion. Since a licence does not fall within the expression

“debt or security” under Section 372 of the Indian Succession Act, 1925, a Succession Certificate cannot be granted in respect of a saw–mill licence.

Q.42 Whether proceedings for Succession Certificate should be stayed when a matrimonial suit regarding marital status is pending before the Family Court?

Relevant Case Laws:

1. *Sridhar v. A. Adivaralaxmi*, 1996 SCC OnLine AP 252

Answer:No. In *Sridhar v. A. Adivaralaxmi*, 1996 SCC OnLine AP 252, it was held that proceedings for grant of Succession Certificate need not be stayed merely because a suit for declaration of marital status is pending before the Family Court. Both proceedings are independent in nature and can continue simultaneously.

Q.43 Whether a subordinate court can grant a Succession Certificate under Section 388 of the Indian Succession Act?

Relevant Case Laws:

Shyamali Middya v. Anjana, 2004 SCC OnLine Cal 23

Answer: Yes. In *Shyamali Middya v. Anjana*, 2004 SCC OnLine Cal 23, it was held that under Section 388 of the Indian Succession Act, 1925, the State Government may, by notification in the Official Gazette, empower a subordinate court to exercise the powers of a District Judge for granting Succession Certificates. Once so empowered, such subordinate court exercises the same powers as a District Judge in matters relating to grant of Succession Certificate.

Chapter–5

MASTER TABLE — Succession Certificate Case Law Compilation

Table of all the case laws discussed above relating to Succession Certificate under the Indian Succession Act, 1925

S. No.	Case Name	Citation	Issue	Principle Laid Down
1	Smt. Krishna Pyari Bai Dixit v. Govind Mishra	AIR 1992 MP 145	Retirement & insurance dues	Retirement benefits and insurance amounts are “debts”; Succession Certificate can be granted.
2	Rajju Devi v. Nageshwar	AIR 1965 All 267	Provident Fund	PF amount can be realized through Succession Certificate.
3	Bhanwarlal v. Director of Agriculture	2005 (1) MPWN 57	Nominee vs Legal heir	Nominee has preferential right to receive gratuity.
4	Vidyadhari v. Sukhrana Bai	(2008) 2 SCC 238	Nominee vs lawful wife	Nominee only receives amount; does not override lawful succession.
5	Smt. Satyavati Amma v. Krishna Amma	2004 (2) MPHT 34	Family Pension	Family pension is not a debt; Succession Certificate not required.
6	Mahadev Garekar v. Sitaram	AIR 1991 Raj 97	Maintenance decree	Succession Certificate not required for execution of maintenance decree.
7	Rani Prabhabati v. Shailesh Nath	AIR 1978 Cal 147	Compromise decree	Not required for execution of compromise decree.
8	Amina Beevi v. Abdul Karim	AIR 1972 Mys 64	Mortgage money	Not required for suit to recover mortgage money.
9	Viumma v. Official Liquidator	AIR 1999 Kar 190	Liquidation dues	Amount payable by Official Liquidator is debt; Certificate required.
10	Nalji v. State of Madhya Pradesh	2019 (2) MPLJ 373	Land acquisition award	Compensation award is “debt” under Section 214(2); Certificate required.
11	Budhwant Kaur v. Rawat Singh	AIR 1988 Raj 1	Security deposit (NSC)	NSC furnished as security is “security” under Section 370; Certificate grantable.

S. No.	Case Name	Citation	Issue	Principle Laid Down
12	Bandra v. Ranveer Singh	2014 ACJ 891 (MP)	Motor accident compensation	Compensation is not debt; Certificate not required.
13	Mohammad Ikram v. Union of India	AIR 1959 Pat 337	Railway claim	Succession Certificate not required.
14	Beena S. Nair v. P. Rajamma	AIR 2002 Ker 378	Approved medical assistance	Amount sanctioned during lifetime is debt; Certificate can be granted.
15	State of M.P. v. Kedia Leather & Liquor Ltd.	(2003) 7 SCC 389	Nature of licence	Licence is privilege, not property.
16	Har Shankar v. Dy. Excise & Taxation Commissioner	(1975) 1 SCC 737	Liquor licence	No property right in licence; privilege only.
17	Sridhar v. A. Adivaralaxmi	1996 SCC OnLine AP 252	Matrimonial dispute pending	Succession proceedings need not be stayed.
18	Shyamali Middya v. Anjana	2004 SCC OnLine Cal 23	Section 388 power	Subordinate court can be empowered to grant certificate.
19	State of Chhattisgarh v. Dhirjo Kumar Sengar	(2009) 13 SCC 600	Effect of certificate	Does not conclusively determine relationship.
20	C.K. Prahalada v. State of Karnataka	(2008) 15 SCC 577	Ownership	Certificate does not confer ownership; title not adjudicated.