

A [succession certificate](#) is issued by a civil court to the legal [heirs](#) of a deceased person. If a person dies without leaving a will, a succession certificate can be granted by the court to realise the debts and securities of the deceased. It establishes the authenticity of the heirs and gives them the authority to have securities and other assets transferred in their names as well as inherit debts. It is issued as per the applicable laws of inheritance on an application made by a beneficiary to a court of competent jurisdiction. A succession certificate is necessary, but not always sufficient, to release the assets of the deceased. For these, a death certificate, letter of administration and no-objection certificates will be needed.

Details: The name and relationship of the petitioner, names of all heirs of the deceased, details about the time, date and place of death should be mentioned in the application. A copy of the death certificate has to be produced.

Fees: The court levies a fixed percentage of the value of the estate as fee for issuance of the certificate.

The court fee has to be paid in the form of judicial stamp papers of the required amount, after which the certificate

In addition to the court fee, the lawyer's fee also needs to be taken into account.

(The content on this page is courtesy Centre for Investment Education and Learning (CIEL).)

Succession Certificate

A succession certificate, strictly speaking, does not effect adjudication of title of the deceased far less than that of the holder as regards the debts and securities covered thereunder. Yet, simply to afford protection to the parties paying the debts. The grant of succession certificate is conclusive against the debtor. A succession certificate is effect throughout the whole India as per section 380 of The Indian Succession Act,1925 (herein after referred as the Act). According to sections 381 and 386 of the Act, a succession certificate is conclusive as against the person/persons liable to whom full indemnity is afforded (make available) for payments made. But, despite the succession certificate is only conclusive of the representative title of the holder thereof as against the debtors, a suit of declaration will not lie that the holder of the certificate is not the legal representative of the deceased.

What	does	the	word	"	Succession"	mean?
"The law and procedures under which beneficiaries become entitled to property under a testator's will or on intestacy."						
Grant	of	Succession	Certificate-	Certain	Restrictions:	
Under the following circumstances, no succession certificate can be granted;						
i) under section 370 (1) of the Act, as to any debt or security to which a right is required to be established by probate or letters of administration;						
ii) that too, if sections 212 of the Act applies;						
iii) if section 213 of the Act applies;						
iv) that is to say that where law requires probates or letters of administration as mandatory to establish right to property as in the cases of Parsis, Jews, East Indians, Europeans and Americans.						
v) Provided that nothing will prevent as to granting a succession certificate to any person entitle to the effects of a deceased Indian Christian or any part thereto pertaining to any debt or security, that the right can be established by letters of administration.						
What does the word "SECURITY" mean under the purview of Succession Certificate?						
A fortiori, it is very essential to know the word " Security" means, any bond, debenture, promissory note, any stock or debenture of , or share in , a company , any debenture or other security for money issued by or on behalf of a local authority, that too, any other security which the Governor -General in Council may declare to be security for the purpose of succession certificate, any annuity charged by Act of Parliament on the revenues of India etc.						
How	to	apply	for	"Succession	Certificate'":	
i) An application should be made to The District Judge under section 372 of the Act;						
ii) the petitioner must sign and verify the petition;						
iii) the residences of the relatives of family of the deceased must be mentioned;						
iv) In case of The Hindu Succession Act (Act XXX of 1956), the names of the heirs must be mentioned in the petition;						
v) the right of the petitioner should be mentioned;						
vi) Either Ordinary residence of the deceased, at the time of death, or the property of the deceased should be within the limits of the Jurisdiction of the Court concerned;						
vii) the debts and securities as to which the succession certificate is applied for should be mentioned;						
viii) the absence of any impediment u/sec. Sub section (1) of Section 370 of the Act or any other provisions of the Act or any other enactments to the grant of succession certificate or to the validity of it in case of it was granted, must be mentioned.						
Effect	of	Succession	Certificate:			
To know the effect of succession certificate, it is apt to see section 381 of the Act. The succession certificate simply affords protection to the parties paying debts. It is thus clear that there is absolutely no adjudication of title of the deceased.						
Case-Law:						
In the case of Muthia vs Ramnatham , 1918 MWN 242, it was held that the grant of certificate gives to the grantee a title to recover the debt due to the deceased, and payment to the grantee is a good discharge of the debt." In the case of Srinivasa vs Gopalan , it was held that " The question whether the debt belonged to the deceased is not a matter to be decided on an application for a succession Certificate." In the case of Paramananda Chary vs Veerappan, AIR 1928 Madras 213: 82 IC 604, it was held that "The grant of succession certificate is conclusive against the debtor. Even if another person turns out to be the heir of the deceased, it does not follow that the certificate is invalid." In the case of Ganga Prasad vs Saudan , it was observed that section 381 of the Act protects the debtors and affords full indemnity to the persons liable to pay the debts and in respect of the securities covered by hte certificate as persons having the same paid in "good faith".						
No	Addition	Yet	Extension	of	Succession	Certificate:
Section 376 of the Act provides that the succession certificate can be extended in respect of any debt or security not originally specified therein and if such extension is ordered, it shall have the same effect as if the debt or security to which the succession certificate is extended had been originally specified. The District Judge can extend a succession certificate only on the application of the holder of a succession certificate and not of any other person.						

Succession Certificate,Letter of Administration,Probate of Will

The right paper work goes a long way in getting YOUR money to THOSE you love when you are no more to help them out. When you approach a financial institution, bank, Mutual Fund AMC, Demat account, PPF etc to inherit, they may ask for documents like **Succession Certificate** or **Letter of Administration** or **Probated copy of the Will** to ascertain that you are the legal heir. This may even happen when you have a **valid will**. This post goes into details about these documents. This post is a part of series Paper Work in which had dealt with following:

- Paper Work A Necessary Headache
- Right Paper Work For Those You Love: Part 1
- Will: Right PaperWork For Those You Love-Part II
- Bank Account,Term Deposit,Locker:Paperwork Required For Claim

Succession Certificate

In the absence of a will, if there is no survivor amongst the account holders and a no nomination had been done by the holder(s) earlier, a **Succession Certificate** is be the primary document through which the heirs can stake a claim to the assets of a deceased relative. **A succession certificate, under the Indian Succession Act, is a document that gives authority to the person who obtains it, to represent the deceased for the purpose of collecting debts and securities due to him or payable in his name.**

It establishes the authenticity of the heirs and give them the authority to inherit debts, securities and other assets that the deceased may have left behind.

Where the Application has to be made ? The beneficiary has to approach the district or the high court within whose jurisdiction, i.e legal territory, **the assets fall(where the properties of your deceased relative are situated)** and file a petition for a succession certificate. **Both these courts have concurrent jurisdiction, i.e they are both at par.** Depending on the value of the estate of the deceased, the matter shall go to the type of court, which can conduct cases for that value [This is known as "pecuniary jurisdiction" of the court]

The petition should **mention the relation of the petitioner with the deceased, details of other surviving legal heirs and beneficiaries, the time, date and place of death and also if he died intestate.** You will also have to attach the death certificate and other documents that the court may require.

The court, after examining the petition, issues a notice to all those concerned. **It also issues a notice in a newspaper and specifies a time frame (usually one-and-a-half months)** within which anyone who has objections may raise them. If no one contests the notice and the court is satisfied, it passes an order to issue a succession certificate to the petitioner. If there is more than one petitioner, then the court may jointly grant them a certificate but it will not grant more than one certificate for a single asset. For this you have to then submit Judicial Stamp papers of sufficient amount (as per the prescribed court fees structure) in the court, whereafter the Certificate is typed by the court staff, duly signed and sealed and delivered.

Apart from lawyer's fees, courts levy a fixed percentage of the value of the estate as a fee which may be upto 3% of the value of assets.

How long should it take to obtain the Succession certificate from the court ? If the petition is not contested then the court should roughly take about 3-4 months (sometimes even 5-7) from date of filing to receive your certificate.

Once you have the certificate, you are authenticated to distribute the assets to the legal heirs as per the succession laws. Most people think that if the succession certificate is obtained then the person is the rightful owner of the deceased person's properties, which is not true. **A succession certificate allows the person to act exactly similar to how a nominee would act.** It gives the authority to the holder for distributing the deceased person's assets.

A Succession Certificate is not granted in cases where obtaining a Probate of Letter of Administration is necessary such as when there is a valid will. **Sample of the application Form for the Succession Certificate can be seen at:india.gov.in(Note:State mentioned is Arunchal Pradesh), and downloadformsindia:Grant of succession certificate for state of Delhi**

For details refer to livemint.com:**Succession certificate**, Vakilbabu:Steps for obtaining Succession certificate or Greenbuck

Some technical terms related to Will

Testate: When a person dies leaving a will, they are said to have died **testate**.

Intestate succession:When a person dies without leaving a will , they are said to have died **intestate**.

Testator is a person who makes a Will.

Legatee/Beneficiary is a person who inherits the property under a Will.

Codicil is an instrument made in relation to a Will, explaining, altering or adding to its dispositions and is deemed to be a part of the Will.

Executor An executor is a person who is appointed by a testator to execute his Will. In other words, an executor is duty bound to distribute the assets of the testator as per the provisions of his Will. He is the legal representative of the deceased person (**testator**)

Probate of Will

Probate is a legal process in which the court **certifies the authenticity of the will**. **It establishes the legal character of the Executor to implement the Will and to the validity of the Will. Probate can be granted only to the executor appointed by the will. The appointment may be expressed or implied. A Probate is necessary when**

- Will or **Codicil** is that of Europeans, East Indians, Armenians, Jews, Indian Christians and Parsis.
- Case of Wills or Codicils of Hindus, Buddhists, Sikhs or Jains in **Chennai, Kolkata and Mumbai** or where they relate to **immovable property**in these places.
- Where a debt due to the estate of a Hindu is to be recovered.
- A Probate can be granted only after **seven clear days** from the date of death of the person who has made the Will.
- The cost of getting a probate includes legal fees as well as stamp duty on the value of the property being willed. The stamp duty varies from state to state.

How to obtain a probate of a will?

Quoting from Economic Times 9 Jan 2012

A probate is a copy of a will certified by a court of competent jurisdiction. It proves that it is the last and final will of the deceased penned on a particular date. A probate is granted with the court seal and has a copy of the will attached to it. An administrator or executor appointed under the will may not be able to administer its provisions without a probate. It may also be necessary when the deceased leaves behind securities with various nominees and there is a dispute on their division. The nominee can only hold the assets in trust till these are divided as indicated in the will after a probate has been obtained. In the absence of a will or nomination, succession laws come into play.

Application

The application for a probate has to be made to the competent court (a pecuniary jurisdiction may require a higher court to issue a probate for high-value immovable assets) through a lawyer.

Documents

The court usually asks the petitioner to establish the proof of death of testator, proof that the will has been validly executed by the testator, and that it is the last will and testament of the deceased.

Notification

After receiving the petition or application for probate, the court issues a notice to the next of kin of the deceased to file objections, if any, to the granting of probate. It also directs the publication of a citation in a newspaper to notify the general public.

Fees

The court may impose a percentage of assets as a fee to issue a probate. In Maharashtra, for example, a court fee of Rs 25 is payable for assets less than Rs 50,000; 4% for assets between Rs 50,000-2 lakh, and 7.5% for assets over Rs 2 lakh. **There is a ceiling of RS 75,000.**

Points to note

Under the Indian Succession Act, a probate can be granted only to the executor appointed under a will.

If the executor is not available to administer the estate, an application must be made for appointing the same by the court before applying for probate.

A probate is a must when the will is for immovable assets in Mumbai, Kolkata or Chennai.

Probate of a Will when granted, establishes the genuineness of Will from the death of the testator and renders valid all intermediate acts of the Executor as such.

What will be the legal consequences if the Will is not Probated? If the Will which is required to be probated, under the Act, if not probated, has no legal sanctity and binding force. **A probate differs from succession certificate.** A probate is issued by the court, when a person **diestestate** i.e. having made a will and the executor or beneficiary applies to the court for grant of probate. **In case a person has not made a will his legal heirs will have to apply to the court for grant of a succession certificate** which will be given as per applicable laws of inheritance.

Some references : Q&A on Probate of Will at Department of Stamps and Registration of Karnataka. Probate of will on HelplineLaw

If there is no will or a Will does not name any executor then one needs to get be Letter of Administration

Letter of Administration

Letter of Administration is issued by a competent authority (court) and appoints the Administrator to dispose of the property of a person. It is required when :

Testator has failed to appoint an executor under a Will OR

Where the executor appointed under a Will refuses to act OR

Where executor has died before or after proving the Will but before administration of the estate.

A Letter of Administration can be granted after 14 clear days from the date of death of an intestate.

For obtaining a letter of administration the beneficiary has to apply to the court. The court on receiving satisfactory proof of valid execution of the will issues letter of administration to the beneficiary. The application for letter of administration has to contain the following details: (Ref: Tax4India)

1. The time of the testator's death
2. That the writing annexed in his last will and testament
3. That it was duly executed
4. The amount of assets which are likely to come to the petitioner's hands, and
5. The petitioner is the executor named in the will

A Letter of Administration may be granted to one or several people who may apply to the Court. If no one applies, it may be granted to a creditor of the deceased. A Letter of Administration cannot be granted to a minor or a person of unsound mind.

Proof Of Death

Proof of death is usually shown by submission of original Death Certificate. How to obtain Death Certificate at india.gov.in

If a person was killed in an action while serving in armed forces, the official notification may be produced in proof of death of the testator.

Where there is an air crash or sunk ship on the high seas and there is no possibility of survival and a person's body is not recovered the court may take notice of the occurrence and be satisfied regarding the fact of death.

Where a person disappears or is missing, such a person as per law is presumed to have died if he is not heard of for a period of seven years. Ref: Helpline.com

Q & A

From Hindu: I would like to know if it is mandatory for a registered will to be probated if it has been registered in a metro (delhi/new delhi) with the sub-registrar. I heard from someone that if a will is registered with a sub – registrar in a metro/delhi/new delhi then it is not necessary and is accepted. Please advise. *Gopesh Vasandani*.

Our panellist R.L. Narayanan replies: "Probate" means proving a Will. It is granted to the executor named in the Will. A lot of factors may arise in the construction of a Will. The most important being whether the same is made voluntarily or whether there is any incapacity on the part of the person making the Will. Further, if the properties are situated in Kolkata, Chennai or Mumbai, in certain circumstances, probate or letters of administration, as the case may be, will be required. Certain other factors as to whether the same is the last Will and Testament, whether there is any other Will being propounded and many other matters have to be considered in deciding as to whether a Will needs to be probated or otherwise. This depends on the facts and circumstances of the case.

It might seem morbid, discussing about things when we are no more. At a time of loss, loved ones are usually in deep turmoil and legalities can compound the turmoil. Please do the necessary paper work - use **Survivorship mandate, Nominations, Will. It will help in getting YOUR money to THOSE you love when you are no more to help them out.**

Disclaimer: Please note while efforts have been made to provide correct information, We are not an expert in legal laws and it is advisable to visit a qualified lawyer for information on such laws before making any legal moves. We do not take any responsibility, if you read this post and act based on it. We also have no tie-up with any of the external websites mentioned in the post.