

Procedures to be followed for Release of Property Documents upon Death of Property Owner

Vide RBI Notification dated 13.09.2023 with Ref. No. RBI/2023-24/60 DoR. MCS. REC. 38/01.01.001/2023-24 on Responsible Lending Conduct – Release of Movable/Immovable Property Documents on Repayment/Settlement of Personal Loans, Banks should have a well laid out procedure for return of original movable/immovable property documents to the legal heirs.

Upon death of property owner(s), original property documents shall be released to (i) claimant(s) based on production of Legal Representation (Succession Certificate, Will, Letter of Administration etc.) or (ii) legal heirs. In order to identify the claimants/legal heirs, guidelines as stated in Annexure A is to be followed. For release of property documents to the claimants/legal heirs, following procedure to be followed:-

- (i) Obtain Death certificate of deceased property owner issued by Municipality / Corporation / Panchayat / Registrar of Births and Deaths or other authority acceptable to the Bank.
- (ii) In the case of Legal Representation, Succession Certificate, Will, Letter of Administration etc. is to be obtained.
- (iii) In the absence of Legal Representation, obtain necessary certificate to confirm legal heirs. (Please refer to Annexure A for guidance).
- (iv) Claimant(s)/legal heirs have to submit request letter for release of property documents.
- (v) Obtain KYC document of the claimant(s)/legal heirs like Election ID Card, Aadhar card, PAN Card, Driving License or Passport or any other satisfactory proof of identification.
- (vi) Claim request is to be submitted to Regional Office, if the deceased property owners are not liable to the Bank in any other accounts. Regional Office are empowered to dispose of such cases.
- (vii) Upon receipt of sanction from Regional Office, property documents can be released upon obtaining signature of claimant(s)/legal heirs in the Title Deed Register. When Memorandum of Deposit of Title Deeds/Registered Mortgage is obtained, Discharge Receipt/Re-conveyance Deed shall be executed in favour of claimant(s)/legal heirs.

Annexure - A

➤ **Settlement based on production of Legal Representation (Succession Certificate, Will, Letter of Administration etc.)**

Release of title deeds of mortgaged property based on Succession Certificate, Will or Letters of Administration is treated as Settlement based on Legal Representation. Where a legal representation along with required documents is produced by the claimants, Bank is legally bound to release the title deeds to the persons mentioned therein as per the terms of such Legal Representation and the bank will get a valid discharge by handing over title deed/s in favour of such persons.

Succession Certificate is a document issued by a competent court (civil) certifying a rightful person to be the successor of a deceased person. This certificate authorizes successor(s) to realize debts and securities of the deceased person. The person who obtains the succession certificate is entitled to represent the deceased person and to inherit the deceased person's property.

If Succession Certificate has been issued in favour of any person by the Court of Law that persons alone will be entitled to prefer the claim. However, Branches should not insist for succession certificate from the legal heirs of deceased depositors irrespective of the amount of the claim.

If the deceased has left any Will, the beneficiaries under the Will, will be the claimants. Hence branch should call for the Will and scrutinize it to ascertain whether the testator has bequeathed his immovable property (ies) mortgaged with our Bank to the claimants. **A declaration should be obtained from all the legal heirs stating that the Will produced to the Bank is the last Will of the deceased and the same was not cancelled or amended during the life time of testator and requesting the Bank to act upon the Will.** The specimen of Declaration is given in **Appendix - 1**. In case the Will is silent over Bank accounts, the claim will have to be preferred by the legal heirs despite the existence of a Will.

In cases where probate of Will is mandatory as given in Death Claim Manual, branches should insist for probate of the Will. If any Court of Law has granted Probate or Letters of Administration, the authorized persons in whose favour the Probate or Letter of Administration has been issued is entitled to prefer the claim on behalf of the legal heirs. In such cases, declaration from legal heirs as stated above is not required.

In cases, where the parties on their own produce succession certificate/letter of administration/probate of Will, branches may settle the claim upto Rs.1,00,000/- without insisting for production of any documents other than death certificate, attested copy of succession certificate/letter of administration/probate order and proof of

identity of claimants. If there is any doubt or lack of clarity in the term of succession certificate/letter of administration/probate order, branches may take up the matter with R.O. even though the amount involved is less than Rs.1,00,000/-. In cases where parties produce succession certificate/letter of administration/probate of Will and amount involved is more than Rs.1,00,000/- , branches may take up with R.O./HO for necessary sanction in accordance with powers delegated to Regional Offices/ Head Office for allowing settlement.

➤ **Settlement to legal heirs**

As per extant guidelines, in respect of claims above Rs.1,00,000/- , in States where there is a practice of issuing Legal Heirship Certificate, it should be obtained and in other States, we are relying upon Notarised Affidavit of the legal heirs. It is observed that only very few States are issuing the legal heirship certificate for the purpose of settlement of claims and in that case also, the amount up to which the Tahasildar is authorized to issue heirship certificate is very low. Moreover, the procedures for obtaining heirship certificate are cumbersome causing considerable delay. Hence Regional Offices are allowed to accept Relationship Certificate/Family Membership Certificate issued by Village Officer in lieu of Legal Heirship Certificate, up to their delegated powers for releasing the property document to legal heirs, provided Notarised Affidavit is obtained from the legal heirs. The Specimen of Notarised Affidavit is attached herewith as **Appendix - 2**.

Branches/Offices to ensure that the Title Deed Register/ acknowledgement receipt is signed/obtained by the legal heirs/claimant at the time of handing over the original movable/immovable property documents, acknowledging the receipt of the original movable/immovable property documents.

APPENDIX - 1

Testamentary Succession Declaration Form

I/we, (1) _____, S/o. _____, aged _____ years, residing at _____

(2) _____, S/o. _____, aged _____ years, residing at _____

(3) _____, S/o. _____, aged _____ years, residing at _____
(legal heirs of late _____) do hereby declare and

state as follows:-

Sri/Smt. _____ who had executed a Will dated _____ died on _____. We hereby declare that as per the Will the said _____ has bequeathed his/her property mortgaged with the Bank in favour of Sri/Smt. _____. We further confirm that the Will dated _____ is the last Will executed by the deceased and that no other Will or Codicil or any other documents has been executed by the deceased account holder/depositor in the matter of his assets in the form of Bank Deposits/accounts/assets lying with the Bank to his/her credit.

We further declare that the above information is true and we know that we may be liable in damages to the Bank in case it turns out that the information given by us as stated above is incorrect or false or both. We are further aware that on account of the Bank relying or depending on the information furnished above, if the Bank is making any payment/release assets, we are liable to reimburse on demand all amounts so paid and also all costs, charges, expenses, claims etc, incurred by the Bank.

The liability if any arising on account of our giving this letter shall also be binding on our legal heirs, executors, administrators and assigns.

Signature

Place:

Date :

APPENDIX - 2

Affidavit

We, (1) _____, Son/Wife/Daughter of _____
_____, aged ___ years, occupation _____, and resident of _____, (2)
_____, Son/Wife/Daughter of _____, aged ___ years, occupation
_____, and resident of _____ of
_____, (3) _____, Son/Wife/Daughter of _____, aged ___ years, occupation
_____, and resident of _____, do solemnly affirm and state as follows:-

We hereby solemnly affirm and declare that Sri _____, Son/Wife/Daughter of _____ who was residing at _____ expired on _____ and we are his/her only legal heirs entitled to succeed to the estate of deceased.

We also confirm and declare that to the best of our knowledge and belief the said late _____ died intestate, i.e. without executing any Will.

DEPONENTS

Solemnly affirmed at _____ on this _____ day of _____, and the deponents signed before me.

NOTARY