

THE COURT OF THE PRINCIPAL DISTRICT JUDGE, SRINAGAR
(District Court Complex, Moominabad, Batamaloo, Srinagar)

Succession No: 117/2023

CNR No: JKSG020031972023

Date of Institution: 03.08.2023

Date of Decision: 02.09.2023

- 1. Fatima Wd/O Bashir Ahmad Bhat**
- 2. Gulzar Ahmad Bhat S/O Bashir Ahmad Bhat**
- 3. Mumtaza**
- 4. Rubeena**
- 5. Aaisha**

Daughters of Bashir Ahmad Bhat
All residents of Natipora, Srinagar.

...Petitioner(s)

(Through Mrs. Tabasum Manzoor, Advocate)

Versus

PUBLIC AT LARGE

...Respondents(s)

In the matter of:

Petition for grant of succession certificate in respect of debts and securities left behind by the deceased namely **Bashir Ahmad Bhat S/O Jabbar Bhat R/O Natipora Srinagar.**

PRESENT : JAWAD AHMED

(UID NO: JK00053)

O R D E R

- 1.** Petitioners have moved this petition for grant of succession certificate with respect to an amount of Rs.25,22,906/- payable by the Srinagar Municipal Corporation, to Late Bashir Ahmad Bhat S/O Jabbar Bhat R/O Natipora Srinagar, who died on 01.02.2023. (hereinafter called as 'deceased' for short).
- 2.** It has been averred in the petition that petitioners No.1 was the widow and petitioners No. 2 to 5 were the children of deceased. The deceased has left the following amounts in the Srinagar Municipal Corporation:

S.No.	Name of the Debtor.	Details	Amount
		DCRG	Rs.15,93,666/-
1.	Srinagar Municipal Corporation	Leave Salary	Rs.5,49,540/-
		Final G.P Fund	Rs.2,50,000/-
		Salary fo month of 12/2022	Rs.63,276/-
		Salary fo month of 12/2022	Rs.64,824/-
		DA Arrears	Rs. 1,600/-
		TOTAL	Rs.25,22,906/-

It is prayed that the petitioner No. 1 being the widow and petitioners No. 2 to 5 being the children of the deceased are entitled to inherit the debts and securities left behind by deceased Bashir Ahmad Bhat in respect of which succession certificate may be issued in their favour.

3. Public Notice of this petition was got published in daily newspaper “The Mirror of Kashmir” in its edition of 05th of August, 2023 inviting objections, if any, from all and sundry. A copy of the said newspaper is on the file. In response to the Public Notice, none came forward to lay any claim or oppose the claim of petitioners to the pleaded amounts.

4. In support of the petition, the petitioners besides their own, also examined Arif Aash lone and Zaheer as their witnesses. Petitioners and the witnesses have deposed that deceased Bashir Ahmad Bhat has died on 01.02.2023, leaving behind petitioners as the only legal heirs of the deceased.

5. Petitioners have also placed on record documentary evidence in the form of photocopies of death certificate, legal heir certificate of the deceased and copy of communication bearing seal and signature of Srinagar Municipal Corporation, wherein it is reflected that an amount of Rs.25,22,906/- is lying with the Bank in the name of deceased. As per death certificate issued vide Registration No. 21510 on 27.02.2023 by Srinagar Municipal Corporation, deceased died on 01.02.2023.

As per Legal Heir Certificate issued, vide No. JK-REV-LHC/2023/09232 dated 21.07.2023 by Tehsildar Channapora Srinagar, petitioners are the only legal heirs of the deceased.

6. On the basis of oral as well as documentary evidence on record, it has been proved that deceased Bashir Ahmad Bhat who was the husband of petitioner No. 1 and father of Petitioners No. 2 to 5 died on 01.02.2023, leaving them behind as the only legal heirs entitled to the amount of Rs.25,22,906/- left behind by the deceased. Petitioners have thus proved the contents of the petition in their statement while their witnesses have corroborated with the statement of the petitioners in all material aspects.

7. In view of the above, the Petitioners are held entitled to succeed the amount left by the deceased to the extent of their respective shares as per the personal law of inheritance (Sharia) in the following manner:2

Petitioner No.1 as wife will get 1/8th share out of total amount i.e Rs.25,22,906/- whereas, rest of the amount shall be divided into five equal shares out of which two shares shall go to Petitioner No. 2 being son and one shares each shall go to Petitioners No. 3 to 5 being daughters of deceased.

8. Thus, having regard to the aforesaid discussion, the application is allowed and succession certificate in respect of the amount mentioned

in the application is directed to be issued in favour of the petitioners, subject to the condition that petitioners shall file INDEMNITY and SURETY bonds to the effect that in the event of some superior claim coming forward and laying claim over the amount of money, specified above, she shall indemnify such claimant by refunding in the entire amount in this Court. The applicants have also claimed exemption of Court fee on the grounds of that, as the deceased died in harness on 01.02.2023. The death of deceased in harness is testified by the copy of the certificate on record issued by FA/Chief Accounts Officer Srinagar Municipal Corporation. Order No.33-C of 1941 dated 14th January, 1941 read with Notification SRO No.04 dated 31st of October, 2019 issued by Chief Secretariat is previous as under:

“Chief Secretariat (General Department) Order No.33-C of 1941, dated 14th January, 1941--It is ordered that in exercise of the powers conferred by Section 35 of the Court Fees Act, and in suppression of Government Order No.1117-C of 1940 published with Notification No.2/L-97 dated 21st November, 1940, the Government are pleased to remit the fees leviable under articles 11 and 12 of Schedule 1 to the Court Fees Act, 1977 on the probates, letters of administration or succession certificates granted in respect of the property of-

- (i) any Government servant (including those in Civil employ) who is killed or dies from Wounds inflicted, accident occurring or disease contracted while on active service or in service which is of a warlike nature, or involve the same risk as active service; and*
- (ii) any person being a Government servant Civil or military who dies from Wounds inflicted in the actual performance of his official duties or in consequence of these duties.”*

By virtue of Government Notification bearing S.O.No.04 dated 31st of October, 2019 all the notifications and rules and Orders issued under the Constitution of Jammu and Kashmir have been saved. The notification bearing No. GAD(Adm) 49/2019-I dated 31-10-2019 is read as under:

" S.O.04: In the exercise of the powers conferred by the proviso to Article 309 of Constitution of India, the Lieutenant Governor of Union Territory of Jammu and Kashmir is pleased to direct that all the Notifications and Rules and Orders under proviso to section 124 of the Constitution of Jammu and Kashmir shall be deemed to have been issued under the aforesaid proviso to the constitution of India, till further orders or any future modification"

“By order of the Lieutenant Governor”

In view of the above the petitioners is held entitled to the remission of Court fee on the amount in respect of which succession certificate is granted as the deceased had died in harness.

9. Petition is disposed of accordingly and the file shall be consigned to Records after its due compilation.

Announced
02.09.2023
"Mukhtiyar"

(Jawad Ahmed)
Principal District Judge,
Srinagar