

**HEADING OF DECISION IN THE ORIGINAL SUIT.  
DIST: KHORDHA.**

**IN THE COURT OF THE SENIOR CIVIL JUDGE, KHORDHA  
PRESENT :-**

*Sri Raj Kishore Lenka  
Senior Civil Judge, Khordha.*

*Dated this the 31<sup>st</sup> day of October, 2014*

**Intest Case No. 04/ 2014**

Minati Behera, aged about 57 years, W/o- Late Dambarudhar Behera  
of Vill.- Belapada, P.O.- Siko, P.S.- Jankia, Dist- Khordha.

..... Petitioner

-Versus-

1. Balabhadra Behera, aged about 37 years, S/o- Late Dambarudhar Behera  
of Vill.- Belapada, P.O.- Siko, P.S.- Jankia, Dist- Khordha at present  
serving as Medical Officer I/c, Bankoi P.H.C., At/P.O.- Bankoi,  
P.S.- Bolagarh, Dist- Khordha.
2. Indrajeet Behera, aged about 35 years.
3. Satyajee Behera, aged about 33 years.
4. Biswajeet Behera, aged about 31 years.

Sl. Nos. 2 to 4 are sons of Late Dambarudhar Behera,  
of Vill.- Belapada, P.O.- Siko, P.S.- Jankia, Dist- Khordha.

..... Opp. parties

Counsel for Petitioner	...	Sri S. K. Dash & Associates Advocates, Khordha
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Counsel for Opp. Party No. 1	...	Ex-parte.
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Counsel for Opp. Party Nos. 2 to 4. . .	...	Sri A. K. Behera & Associates Advocates, Khordha
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Date of conclusion of Argument – 16.10.2014  
Date of pronouncement of Judgment – 31.10.2014

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**JUDGMENT**

01. The petitioner has filed the present application U/s- 372 of Indian Succession Act to obtain a succession certificate to retain amount of Rs. 2,47,802.90 paisa of her deceased husband from the SBI Bank Account bearing saving A/c No. 11276493931.

02. The petitioner's case is that her husband died on 13.10.2013, succeeded by the petitioner and his four sons, who are the Opp. Parties in this case. The deceased husband of the petitioner during his life time was working as a driver in Orissa Fire Service Department and took retirement on 31.01.2010. After his death they are entitled to the amount deposited in his saving Bank Account vide SBI A/C No. 11276493931 along with the interest. The specific case of the petitioner is that unless and until a succession certificate is provided to the petitioner, they are unable to receive the amount from the Bank. Therefore, the petitioner has approached the court to obtain a succession certificate in her favour.

03. After institution of the suit the Opp. Party Nos. 2 to 4 appeared, but since Opp. Party No. 1 did not participate in the proceeding, the case against him set ex-parte on 22.08.2014. The Opp. Party Nos. 2 to 4 have filed their written show cause by admitting the entire case of the petitioner and they have not also disputed any

of the single claim of the petitioner and they have also consented that since the petitioner and Opp. Party Nos. 2 to 4 have been residing in one mess and petitioner being their mother guardian, she is authorized by them to received the share of Opp. Party Nos. 2 to 4 from the Bank.

04. In order to prove its case the petitioner examined herself as P.W. 1 and relied upon the death certificate of her husband as Ext. 1, Saving Bank Pass Book bearing No. 11276493931 as Ext. 2 and the Xerox copy of letter of C.M., SBI, Khordha as Ext. 3. On the other hand the Opp. Parties examined none, nor admitted any document.

05. The petitioner in her evidence in chief has deposed that her husband died a natural death on 13.11.2010 at village Siko. During his life time he was serving as a Driver in Orissa Fire Service Department and took his retirement on 31.01.2010. At the time of his death, he has saved Rs. 2,47,802.90 paisa in his saving Bank account No. 11276493931 in the State Bank of India, Khordha Branch. The petitioner and the Opp. Parties being the class- I heir and being guided by the Hindu Mitakshyara Law are entitled to withdraw the said amount along with the interest accrued thereon. Therefore, the present case has been filed to issue a succession certificate in favour of the petitioner to retain the amount deposited by her deceased husband. The Opp. Parties during cross-examination has not objected the claim of the petitioner; rather they have supported the claim of their mother.

After going through the petition as well as the evidence in chief and the document relied upon in support of the petitioners case, it is well asserted by this court

that the petitioner and the Opp. Parties being the legal heirs of deceased Dambarudhar Behera are equally entitled to the amount deposited in the name of Dambarudhar Behera in his Saving Bank A/c No. 11276493931, in the SBI Khordha Branch. Since the Opp. Parties have conceded to the claim of the petitioner, this court has no hesitation at all to provide the succession certificate of the petitioner, who will distribute the share of all the Opp. Parties equally. The petitioner and the opp-parties are entitled to 1/5<sup>th</sup> share each out of the case amount. The Opp. Party No. 1 has not participated in the proceeding, but by virtue of succession as a co-sharer to the case amount, the petitioner has to provide 1/5<sup>th</sup> share to the Opp. Party No. 1 with acknowledgment to the court. Hence it is order.

**ORDER**

- 1) The Succession Misc. Case is allowed on contest against the opp-parties No-2 to 4 while ex-parte against opp-party No-1, but in the circumstances there is no order as to cost.
- 2) Accordingly a Succession certificate be issued in favour of the petitioner to receive the case amount of Rs.2,47,802.90 paisa, deposited in his saving Bank account of deceased Dambarudhar Behera, in his account No. 11276493931, in the State Bank of India, Khordha Branch. The petitioner being not entitled for any exemption, has to deposit the court fees on the interest accrued during pendency of the case on the amount deposited in the name of the deceased, if any.

Advocates fees are at contested scale.

Senior Civil Judge, Khurda.

Transcribed to my dictation, corrected and signed by me and pronounced in the open court this the 31<sup>st</sup> day of October, 2014.

Senior Civil Judge, Khurda.

List of witnesses examined on behalf of Petitioner :-

P.W.1            Minati Behera.

List of witnesses examined on behalf of Opp. Parties :-

None

List of documents admitted on behalf of the Petitioner :-

Ext. 1            The death certificate of Dambarudhar Behera.

Ext. 2            SBI Saving Bank Pass Book No. 11276493931.

Ext. 3            Xerox copy of the letter to C.M., SBI, Khordha.

List of documents admitted on behalf of the opp-parties :-

Nil.

*Senior Civil Judge, Khurda.*