

**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 13<sup>th</sup> day of October, 2014*

**Succ. 03/ 2008**

Basanta Kumar Rath, aged about 66 yrs, S/o- Late Dayanidhi Rath of  
Vill./P.O.- Saguanbagicha, P.S/Dist- Khordha.

..... Petitioner

-Versus-

1. Prabhash Chandra Rath, aged about 33 yrs.
2. Pradosh Kumar Rath, aged about 31 yrs.

Both are sons of Basanta Kumar Rath of Vill./P.O.- Saguanbagicha,  
P.S./Dist- Khordha.

..... Opp. parties

Counsel for Petitioner           ...           Sri A. K. Das & Associates  
Advocates, Khordha

Counsel for Opp. Parties       ...           Sri B. P. Mangaraj & Associates  
Advocates, Khordha

.....  
Date of conclusion of Argument       -       18.09.2014

Date of pronouncement of Judgment -       13.10.2014

.....

**JUDGMENT**

01. The petitioner has filed the present application U/s- 372 of Indian Succession Act to obtain succession certificate to retain insured amount of Rs.1,00,000/- of his deceased son.

02. The Petitioner's case is that on 26.03.2006 his son namely Subash Chandra Rath died in a road accident. During his life time, the said Subash Chandra Rath had opened an insurance policy in the 'New India Assurance co Ltd'. bearing policy No.551001/31/06/01/98/0000055. The said Subash Chandra Rath died leaving behind his father, who is the petitioner in this case and the Opp. Parties, his two brothers. The petitioner further claims that after the death of his son he demanded to retain insurance amount of his deceased son, but the insurance company directed the petitioner to provide the succession certificate for the above purpose and as such the present application has been preferred.

03. The Opp. Parties have appeared in this case and submitted their written objection, but they have admitted all the claims of their father and they have further stated that they would have no objection if the succession certificate is provided to their father/petitioner.

04. In order to substantiate its case the petitioner only examined himself as P.W. 1 and repeated his pleadings. In addition to the same he has exhibited the death certificate of his wife Smt. Surekha Rath dt. 22.05.2004 as Ext. 1, death certificate of

his son Subash Chandra Rath as Ext. 2, the premium money receipt dt. 18.08.2005 bearing No.234889 as Ext. 3, letter No.1507/21.01.2008 as Ext. 4 and Letter No. 1767/19.03.2008 as Ext. 5. The Opp. Parties declined to cross-examine P.W. 1.

05. It is not under dispute that the petitioner is the father of the deceased, Subash Chandra Rath and the Opp. Parties are the brothers. The petitioner has come to the court for a succession certificate of his deceased son Subash Chandra Rath to retain the insured amount of Rs. 1,00,000/- as per the schedule of the property given in the foot of the petition by mentioning the policy number, claim number and other required informations. The claim of the petitioner has not been disputed at all. This court has also gone through all the documents relied upon by the plaintiff as discussed above and for which this court has no hesitation to provide the succession certificate to the petitioner in order to obtain the insurance amount of his deceased son subash Chandra Rath amounting to Rs. 1,00,000/-including the interest thereon. Hence it is order.

### **ORDER**

- 1) The Succession Misc. Case is allowed on contest against the opp-parties 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. 1,00,000/- of deceased Subash Chandra Rath in respect of his insured amount in the 'New India Assurance co Ltd'. bearing policy No.551001/31/06/01/98/0000055. The petitioner being not entitled for any

exemption, has to deposit the court fees on the interest incurred 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 13<sup>th</sup> day of October, 2014.

Senior Civil Judge, Khurda.

List of witnesses examined on behalf of Petitioner :-

P.W.1 Basanta Kumar Rath.

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 his wife Smt. Surekha Rath dt. 22.05.2004.

Ext. 2 The death certificate of his son Subash Chandra Rath.

Ext. 3 The premium money receipt dt. 18.08.2005 bearing No.234889.

Ext. 4 Letter No.1507/21.01.2008.

Ext. 5 Letter No. 1767/19.03.2008.

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

Nil.

*Senior Civil Judge, Khurda.*

