

Misc. (S) Case No – 01/2019

Sri Niranjan Biswas -- Petitioner/Applicant

S/O- Lt. Nikhil Biswas

R/O – Singimari gaon,

Borpathar, Golaghat

Vs.

Smti Shanti Biswas -- Opposite Party/Respondent

W/O – Ajit Biswas

R/O – Naloni gaon

Sarupathar, Golaghat

Date : 05.04.2019 :

Present : Sri Siddhartha Bora, A.J.S.

Munsiff, Dhansiri Sub-Division

Sarupathar, Golaghat District, Assam

*This is an application filed under section 372 of the Indian Succession Act, 1925 by the petitioner **Sri Niranjan Biswas, S/O- Lt. Nikhil Biswas, R/O – Singimari gaon, under Borpathar Police Station, Golaghat against the opposite party Smti Shanti Biswas , W/O – Ajit Biswas, R/O – Naloni gaon under Sarupathar Police***

Station , Golaghat, *praying for issuing a Succession Certificate in favour of the applicant for realization of the money left by the deceased at United Bank of India.*

The brief fact of the case, as stated in the petition filed by the petitioner, is that the petitioner is the son of the deceased Lt. Nikhil Biswas s/o- Late Girindra Biswas who was a permanent resident of Vill- Singimari gaon, Barpathar under P.O & P.S. Barpathar in Golaghat District, Assam is within the jurisdiction of this Court. Lt. Nikhil Biswas died on 05.10.2018 at his own residence. At the time of death., the deceased left surviving him the following members as his legal heirs and successors -

<u>Name</u>	<u>Relationship</u>	<u>Age</u>
1. Smti Shanti Biswas	daughter	37
2. Sri Niranjan Biswas	Son	32

The deceased has maintained a Bank account in United bank of India and at the time of his death left an amount of Rs, 60,285.00 (Rupees sixty thousand two hundred and eight five Only) in United Bank of India. The following chart prepared after comparing the Schedule of the plaint and the Ext.3 gives a picture of the securities left at the United Bank of India at the time of his death -

Sl. No.	Account No. & Date of opening	Name of the account holder	Balance amount at the time death	Name of the Bank	Branch
1.	0311010340458 30/01/2015	Nikhil Biswas	60,285.00/- as on date 21/01/19	United bank of India	Borpathar

No will or any letter of administration has been left by the deceased at the time of his death in respect of the said LIC Policy

The petition is supported by affidavit identified by his engaged Ld. Smti Nirupama Saikia.

Having filed the suit by the petitioner, notices were served to the Opposite party as required under section 373 of the Indian Succession Act, 1952. The Opposite party, even after receiving notices, did not turn up and so, the suit was proceeded with ex-parte against the Opposite party.

I have gone through the evidence adduced by the petitioner. On perusal of the evidence on record and the exhibited documents, it is evident that Ext. 1 is the Death Certificate issued by Registrar, Birth and Death, of Barpathar M.P.H.C. on 07.11.2018 in the name of Lt. Nikhil Biswas who was died on 05.05.18 and Ext. 2 is the Declaration Certificate of death and Next of Kin(s) issued by SDO(C), Sarupathar on 13th February in the year 2019. Ext.3 is the copy of Passbook of bank account of the deceased Nikhil Biswas and the statement of his bank account till date on 21.01.19.

After a careful and thorough perusal of the evidence on record and the exhibited documents, it is crystal clear that Lt. Nikhil Biswas, the father of the petitioner, died on 05.10.18. At the time of his death, the deceased Lt. Nikhil Biswas left behind his married daughter Smti Shanti Biswas and his son Niranjan Biswas who are the Next-of-kin(s) as is evident from the Ext.2. From the Ext.3 it is also obvious that the deceased Lt. Nikhil Biswas also left an amount of Rs. 60,285/- (Rupees Sixty Thousand Two Hundred Eighty Five only) in his Bank Account at United Bank of India in Sarupathar branch.

From the evidence on record, it also appears that the evidence adduced by the petitioner as PW1 was left unrebutted by the Opposite party because the Opposite party even after receiving notices did not appear before this court.

It has been stated in the petition that neither any letter of administration has been issued nor any will has been left by the deceased at the time of his death in respect of the above mentioned bank account of the deceased.

Hence, I find no any legal impediment under section 370 of Indian Succession Act, 1925 to grant Succession Certificate in favour of the petitioner, Sri Niranjan Biswas.

Accordingly, **issue Succession certificate in favour of the petitioner, Sri Niranjan Biswas** in respect of the amount of money Rs.60,285.00/-(Rupees Sixty Thousand Two Hundred and Eighty Five Only) as mentioned in the Ext.3, authorizing him to withdraw the amount for himself on payment of necessary court fees and on execution of indemnity bond.

This Misc. case is, accordingly, disposed of.

(Siddhartha Bora)

Munsiff, Dhansiri Sub-Division

Sarupathar, Golaghat.