

ORDER

05.11.2020:

1. The petitioner is represented. Heard arguments further. The instant case has been filed by the petitioner, namely, Sri Nitu Boruah u/s 372 of Indian Succession Act, 1925, for grant of succession certificate in favour of the petitioner in respect of debts and securities of his deceased wife, Late Barasarani Gogoi @ Barasa Baruah.
2. The petitioner in his petition mentioned that he is the husband of the above named deceased who expired intestate on 26.01.2014 due to illness. The deceased was a resident of Village Rotowapathar, P.O. & PS Gingia, Mouza Baghmara, District- Biswanath, Assam. He stated that Opposite party no. 1 is the mother of the deceased and the Opposite party no. 2 is their minor daughter. While the deceased was unmarried, she met with an road traffic accident at Rotowa and a claim case registered as MAC 57/09 was filed. The Motor Accident Claims Tribunal ultimately awarded a sum of Rs. 55,000/- in that case as compensation in favour of the deceased on 21.03.2013 and the amount has been deposited by the Insurance Company with the Tribunal. The deceased at that relevant time failed to personally come to the Tribunal to receive amount due to her illness and as she has later died on 26.01.2014, the compensation amount still remained unclaimed with the Tribunal. According to him, being the husband of the deceased and he is the fit person for granting of a succession certificate in his name in respect of the debts and securities of the said deceased. He stated that he being her husband and the Opposite party no. 2, Smti Violina Baruah, aged 6 years represented by him as her father- a natural guardian are the only legal heirs of the deceased.
3. He stated that no will or 'codicil' nor any letter of administration was left by the deceased in respect of her debts and securities.
4. The petitioner therefore applied for obtaining a succession certificate in his favour in respect of the debts and securities of his deceased wife which he has mentioned in the schedule of the petition as herein below described:

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Schedule:

Name of debtor	Amount	Description and the Date of Instrument
United India Insurance Co. Ltd.	Rs. 55,000/- with up to date interest	MAC Case no. 57/09 Barasa rani Gogoi Vs Shri Dikumoni Choudhury & Ors.

5. Notices were duly served on the Opposite parties, last residence of the deceased and general public but none appeared for which the case proceeded ex-parte.

6. I have heard arguments advanced by the learned counsel for the petitioner. The petitioner adduced his evidence through affidavit. He also has proved the following documents:

i) Ext. 1: Death Certificate of the deceased showing her date of death as 26.01.2014.

ii) Ext.2: Village Headman Certificate dated 04.07.2019 wherein it has been certified that the petitioner and the Opposite party no.2 are the next kin and successors of the deceased.

iii) Ext.3: Certified copy of the judgment dated 21.03.2013 passed in the MAC case no. 57/09 by the MACT, Biswanath Chariali awarding the deceased with compensation of Rs. 55,000/-.

iv) Ext.4 is the affidavit submitted by the petitioner declaring that his wife Barasa rani Gogoi and Barasa Baruah are the one and the same person.


7. The petitioner in his evidence-on-affidavit testified in support of his petition and stated that he was the husband of the above named deceased who expired intestate on 26.01.2014 due to illness. The deceased was a resident of Village Rotowapathar, P.O. & PS Gingia, Mouza Baghmara, District- Biswanath, Assam. He stated that Opposite party no. 1 is the mother of the deceased and the Opposite party no. 2 is their minor daughter. While the deceased was unmarried, she met with an road traffic accident at Rotowa and a claim case registered as MAC 57/09 was filed. The Motor Accident Claims Tribunal ultimately

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8. It is therefore directed that succession certificate as prayed for with regard to the money as described in the Schedule of the petition be issued in favour of the petitioner after obtaining proper Court fees over the afore said amount.
9. The Misc. (SC) case is disposed of accordingly.


JUDGE
COURT OF JUDGES