



TRANSFER PROCESS REQUIRED BY NOMINEE TO TRANSFER THE FLAT

Transfer of Shares and interest of the Deceased Member in the Capital / Property of the Nominee / Nominees Bye Laws – 34

Following form are required when a flat transfer by a Nominee (Nomination done by deceased Member):

- Application for Membership
- Death certificate – Original
- A form of application for membership by the Nominee/Nominees, Bye-Laws No 34]. (Form No 15)
- The form of undertaking to be furnished by the prospective member to use the flat for the purposed for which it is allocated. (Bye laws No. 19 (a) (iv)) On Rs. 200/- Stamp Paper. (Form No 3)
- Indemnity Bound on Rs. 500/- Stamp Paper Duly Registered Notary.
- Original Copy of Duplicate Nomination Form of deceased member where Nominee's name written.
- Photo Copy of ID Proof Pan & Aadhar Card of Applicants.
- Nomination Form for Incoming Member. (Form No 14) (to be provided once admitted as Member)
- New owner information (KYM) (If Prepared by Society).
- Share Transfer Fee as per Bye- Law No. 38 (e) (vii) Rs. 500/-
- Entrance Fees as per Bye- Law No. 38 (e) (viii) Rs. 100/- Per Member

Note: In case of acquiring Membership on the basis of Nomination, such Member shall hold the flat / unit in 'trust' till all the Legal Heirs are brought on record and shall not have the right to ownership and shall not create third party interest or alienation in any way whatsoever.

Transfer of Legal Title of Flat to Legal Heir(s):-

On admission of Provisional Member he/she has to produce Succession Certificate / Letter of Administration from Court or Legal Heir ship Certificate from District Tahsil Office in case if there any dispute between legal heirs to establish status of legal heirs of deceased member along with registered released deed.

In case of no dispute is there then legal heirs can execute registered Released Deed in Sub Registrar office where Index II will be generated in the name of beneficiary. So on the basis of that you can transfer title of flat of deceased member to beneficiary legal heirs mentioned in Index II of Released Deed.

What Bye Law No 34 Says:-

1. Subject to the provisions of Section 30 of MCS Act. 1960 Bye-law No. 17A or 19, on the Death of a Member, the Society shall transfer the shares and interest of the deceased Member in the Capital/Property of the Society to the Nominee/Nominees and in proportion with the shares and interest held by the deceased Member, in case property is purchased by Member and associate Member jointly.
2. In the event of the death of the Member, Nominee/Nominees shall submit the Application for Membership, within six months from the death of a Member.
3. If there is more than one Nominee, on the death of a Member, such Nominees shall make Joint Application to the Society and indicate the name of the Nominee who should be enrolled as Member.
4. The other nominees shall be enrolled as Joint/Associate Members unless the nominees indicate otherwise.
5. The nominees shall also file an Indemnity Bond in the prescribed form Indemnifying the Society against any claims made to the shares and interest of the deceased Member in the capital / Property of the Society by any of them, in case only one nominee is indicated by the Nominees for Membership of the Society.

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Transfer Forms Required by legal heirs to transfer the flat. (without Nomination)- Bye Laws – 35

Following form are required when a flat transfer by a legal heirs of deceased Member :

- Death certificate – Original
- Certified copy of Succession Certificate / probate of WILL / Legal heirship Certificate / Register Released Deed
- A form of application for membership by the Nominee/Nominees [Under the Bye-Laws No 34] (Form No 17)
- The form of undertaking to be furnished by the prospective member to use the flat for the purposed for which it is allocated. (Bye laws No. 19 (a) (iv)) On Rs. 200/- Stamp Paper. (Form No 3)
- Indemnity Bound on Rs. 500/- Stamp Paper duly Notary.
- Paper Notice from Society in 2 Local Newspapers
- Testamentary Documents (Any one of the following) Under Section 154 B 13
 1. Testamentary Documents Issued by Probate Court in case of Will or
 2. Succession Certificate from Court
 3. Legal Heir-ship Certificate from Tahsildar of District
 4. Document of Family Arrangement executed by the persons (Registered Released Deed)
- Photocopy Copy of ID Proof Pan & Aadhar Card of Applicants.
- New owner information (KYM) (If Prepared by Society).
- Share Transfer Fee as per Bye- Law No. 38 (e) (vii) Rs. 500/-
- Entrance Fees as per Bye- Law No. 38 (e) (viii) Rs. 100/- Per Member

M.C. Approval Date:-

AGM Approval Date:-.

Bye law 35: Where a member of the Society dies without making a nomination, or no nominee comes forward for transfer.

The society shall invite, within one month from the information of his death, claims or objections to the proposed transfer of shares and interest of the deceased member in the capital/property of the Society, by a public notice, in the prescribed form exhibited on the notice board of the society. It shall also publish such notice in at least two local newspapers, having wide circulation. The entire expenses of publication of the notice shall be recoverable from the value of share and interest of the deceased member in the capital/ property of the society. After taking in to consideration the claims or objections received, in response to the said notice, and after making such inquiries as the committee considers proper, in the circumstances prevailing, the committee shall decide as to the person, who in its opinions, is the heir or legal representative of the deceased member.

Such a person will be eligible to be a member of the Society subject to the provisions of the bye-laws Bye Laws Nos.17 (a) or 19 provided that he gives an indemnity bond, along with his application for membership in the prescribed form, indemnifying the Society against any claims made to the share and interest of the deceased member in the capital/property of the society, at any time in future by any person. If there are more claimants than one, they shall be asked to make the affidavit as to who should become a member of the Society and such person, named in the affidavit shall furnish the indemnity bond as indicated above along with application for membership, referred to above. If, however, the committee is not able to decide as to the person who is the heir/legal representative of the deceased member or the claimants do not come to the agreement, as to who should become the member of the Society, the committee shall call upon them to produce succession certificate from the Competent Court. If, however, there is no claimant, the shares and interest of the deceased member in the capital/property of the Society shall vest in the society.





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What do these documents mean?

The letter of testamentary is a document issued by a probate court. A probate court is the type of court that validates and processes Wills after someone dies. A probate is granted with the court seal and has a copy of the Will attached to it. Under Section 57 of the Indian Succession Act, the Will is required to be probated. The transfer of property by inheritance takes place in 3 Metropolitan Cities i.e. Bombay, Calcutta and Madras only by Letter of Probate. While in other cities, it can be on the basis of the documents in support thereof with an affidavit or declaration before the appropriate authority. Succession is testamentary if the deceased has executed a Will which is a legal declaration of the intention of the testator with regard to his properties to be carried into effect after his death.

A Succession Certificate is a document that is granted by a civil court to the legal heirs of a deceased who dies without leaving a will. So a person who dies has either made a 'Will' or died 'intestate'. If a person has made a 'Will,' the 'Will' has to be submitted for Probate after the death of the person. If a person dies 'intestate,' then all the legal heirs have to apply to a competent court for a 'Succession Certificate' so that his property can be transferred upon his successors.

Legal Heir Certificates are issued by the Tahsildar of the district to recognize the actual deceased person living heirs. It is necessary to transfer the ownership of the deceased's assets, such as property, bank accounts, and other financial assets, to their legal heirs. It typically takes about 30 to 45 days to obtain a Legal Heir Certificate.

The following individuals are generally recognized as legal heirs (class I heirs):

- Spouse of the deceased.
- Children of the deceased (including adopted children).
- Parents of the deceased.

In the absence of Class I heirs, Class II heirs can claim the property. Class II heirs for a Hindu man according to Hindu Succession Law

- Grandchildren of the deceased
- Great-grandchildren of the deceased
- Siblings of the deceased
- Other relatives of the deceased

Documents Required For A Legal Heirship Certificate in Mumbai

- Signed application form in the prescribed format.
 - Identity and address proof of the applicant. (Voter ID/ Aadhar Card/Driving Licence/Passport or any other government-issued identity card)
 - Address proof of the deceased. (Any valid identity proof or telephone/mobile bill, gas bill, bank passbook with the name and address of the deceased)
 - Death certificate of the deceased. (Original to be produced)
 - Date of birth proof of all legal heirs. (Birth certificate, School Transfer/Leaving Certificate, PAN Card, Passport, etc)
- A self-undertaking affidavit on ₹20 non-judicial stamp paper.

A Family Arrangement is an agreement between members of the same family, intended to be generally and reasonably for the benefit of the family, either by compromising doubtful or disputed rights or by preserving the family property or the peace and security of the family by avoiding litigation or by saving its honour. The intention of the arrangement is to shield the family from long drawn litigation or perpetual strifes which mark the unity and solidarity of the family and create hatred and bad blood between the various members of the family. Family arrangements are governed by a special equity peculiar to themselves, and will be enforced if honestly made, although they have not been meant as a compromise, but have proceeded from an error of all parties, originating in mistake or ignorance of fact as to that their rights actually are, or of the points on which their rights actually depend.

A Release Deed is an important document to transfer property ownership. A release deed is also known as a relinquishment deed. A Release Deed is used when one co-owner of the property wants to release their ownership and transfer the property rights to the other co-owners. A release deed can also be executed for ending the liabilities of the personal guarantees, the bank's legal hold after repayment of the home loan, and for the settlement of the disputes between the parties. In short, the release deed is used when one party needs to release the ownership of something to another property.

According to section 17 of the Registration Act 1908, The release deed is considered valid only when the release deed is registered at the sub-registrar office. You can register the release deed at the sub-registrar office in online and offline modes. The Stamp Duty for Release Deed is 200 rupees, and the Registration amount is 1000 when it is with consideration, within Maharashtra. If it is without consideration, then the Stamp duty shall be 6% and Registration would be 1% over the value of the property within Maharashtra.

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