

Annexure

Standard Operating Procedure

(A) Instances leading to release of movable/ immovable property documents to legal heirs/ third parties:

The following instances transpire during release of Moveable/ Immovable property documents to legal heirs of the deceased/ missing borrowers or agents of POA, (where borrower is abroad) whose credit facilities have been repaid in full, which need to be sorted out to avoid delay.

1. Security standing in the name of sole deceased borrowers
2. Securities standing in joint names, where one of the borrowers is deceased and another borrower is surviving
3. Sole borrower or one of the joint borrowers is missing/ non-traceable
4. Sole borrower or one of the joint borrowers is residing abroad

Therefore, to address the contingent event of demise of the sole borrower or joint borrowers, the need for having a detailed procedure for release of Moveable/ Immovable property documents to the legal heirs of the deceased borrowers, agents of POA in case of parties staying abroad on full repayment/ settlement of credit facilities is necessary, details of which are as under:

1) Securities standing in the name of the sole deceased borrower:

The moveable/ immovable property documents may be given to legal heirs of the deceased (after scrutinizing the death certificate) subsequent to closure of all Loan accounts that have charge on the secured assets against which the moveable/ immovable property documents have been claimed by Legal heirs only after submission of the legal heir certificate/succession certificate/Letter of Administration.

In case of submission of only Legal Heir certificate, the Bank may obtain the indemnity Bond (**Annexure-III**) from the legal heirs of the deceased indemnifying the Bank, in the event of any contingent claim is made by any person against the release of title deeds of secured assets.

In case the Succession certificate/Letter of Administration is submitted to the Bank, the securities in the name of the deceased borrower can be returned without any demur as the certificates are granted by the Court of Law.

2) Securities standing in joint names, where one of the borrowers is deceased and another borrower is surviving :

The title deeds may be returned in such cases jointly to the surviving borrower and legal heirs of the deceased borrower; if the legal heirs of the deceased borrower submit the Legal heir Certificate along with the indemnity bond (**Annexure-III**) indemnifying the bank in the event of any contingent claim made by any person.

In case of submission of Succession certificate/Letter of Administration against the movable/immovable securities, the same can be returned without any demur.

3) Sole borrower or one of the joint borrowers is missing/ non-traceable:

If any borrower either in sole or joint account goes missing and remains untraceable in such cases, the missing person can be declared "presumed to be dead" only by the Court of Law in case he/she remains untraceable for a period of seven (07) years. If the loan is closed before he/she is declared "Presumed to be dead" by Court of Law by repayment from his/her heirs, the title deeds of immovable properties/ movable properties may be returned if the Legal heirs of the missing person submit the Letter of Administration/ Succession certificate.

In case the Legal heirs submit only the Legal Heir certificate, the Bank may return the Title deeds if the Legal heirs of the deceased borrower submit **FIR, Non-traceability certificate issued by police authorities and Indemnity affidavit (Annexure-IV) and indemnity bond (Annexure-V) along with the Legal heir Certificate** indemnifying the bank in the event of any contingent claim is made by any person or if the missing person returns /is traced; against the release of moveable/ immovable property documents.

Note: In all above cases ((1), (2) & (3)) , where the threshold limit exceeds Rs.10.00 lakhs for registered immovable property document or exceeds Rs.1.00 lakhs for moveable property / Unregistered immovable property documents; obtention of succession certificate/ letter of administration is mandatory. (Threshold shall be as per the latest available valuation report)

4) Sole borrower or one of the joint borrowers residing abroad:

In such cases, an authenticated Power of Attorney from the borrower staying abroad which shall be vetted by public notary in a foreign country shall be obtained and the same shall be endorsed at concerned Sub-Registrar Office in India. In any case, unauthenticated power of attorney shall not be obtained. Obtention of power of attorney from the borrower after his returning to India shall not be encouraged as it puts the bank under legal risk.

5) Release of Moveable/ Immovable documents to the beneficiary of the will / probate:

As regards release of title deeds to the beneficiary of the will / probate. If it is a case of probate an order from the competent court shall be obtained in the form of probate order. Whereas in case of a claim backed by a registered will, it need not be probated as the document itself is a registered one. Unless instances of disputes between the legal heirs is not brought to the notice of the bank, the same may be considered for release of title deeds. However, if dispute comes to the notice of the bank, then probate shall be obtained.

With regard to release of title deeds to the beneficiary of registered will, the beneficiary of the will need not be sought to produce legal heir certificate/ family member certificate. On submission of registered will and death certificate of the borrower, the beneficiary may be allowed for claiming title deeds of the property provided after verification of KYC of the beneficiary(ies).

For cases (4) & (5), procedure detailed above shall be followed irrespective of the threshold limit.

(B) In above cases (except (4) and (5)) obtention of succession certificate/ letter of administration (or) FIR, Non-traceability certificate issued by police authorities as per the case, need not be insisted :

- Where the registered Immovable property document value (as per latest available valuation report) is below the threshold limit of Rs.10.00 lakhs and where release of moveable property / Unregistered immovable property document the threshold limit shall be less than Rs.1.00 lakhs
- Where the Legal heirs of the borrower are indigent or not in a position to apply for succession Certificate/ Letter of Administration and no ill intent or suspicion arises, and
- Branch Head after getting satisfaction over the antecedents of the legal heirs vis-à-vis existing satisfactory relationship with bank, positive market enquiry and having confirmed that no other legal heirs exists.

Satisfying the above, Bank may desist from seeking submission of the same and can proceed with **Legal heir certificate (or) FIR, Non-traceability certificate issued by police authorities as per the case, along with production of Indemnity Bond from legal heirs.**

If in case, the Branch head is not satisfied about the antecedents of legal heirs, non-availability of the legal heirs, non-traceability of legal heirs, **he shall insist for Succession Certificate/ Letter of Administration irrespective of the amount.**

(C) Prior to permitting release of Moveable/ Immovable documents:

It shall be ensured that

- i. All direct and indirect liabilities are cleared in full for which the said Moveable/ Immovable documents were obtained as primary/collateral.
- ii. All direct and indirect liabilities are regular and such Moveable/ Immovable documents are in no way taken as collateral/continuing security for other direct/indirect liabilities.
- iii. Due care to be exercised in ascertaining liabilities of the borrower with other branches in the Region/other Regions.

(D) General guidelines:

- i. Application for release of moveable/immovable property documents as per **Annexure-I** shall be submitted.
- ii. Letter of Disclaimer from the claimants other than those who have relinquished their rights in the property (Under valid Registered Relinquishment deed) by furnishing a "Letter of Disclaimer" as per **Annexure-II**.
- iii. Verification of KYC of the beneficiaries of moveable/ immovable property documents shall be done.
- iv. Veracity of the legal heir certificate issued by the Competent Authority shall be done.
- v. Due diligence while releasing Moveable/ Immovable documents to legal heirs shall be exercised.
- vi. Release of moveable/ immovable documents based on the legal heir certificate with indemnity shall not be a routine course of action and its adaptability shall be as per threshold limit fixed and based on the genuinity of the case shall be ensured.
- vii. Acknowledgment of the legal heirs of having received all moveable/ immovable documents deposited with the bank and are in order shall be submitted.
- viii. In all the deceased cases, original death certificate and obtain the copy of the same for placing in records shall be verified.
- ix. In case of the beneficiary of moveable/ immovable property documents is a minor, then release shall be made to the natural/ legal guardian. In case of legal guardian, a copy of the order must be enclosed.
