

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

FAQ No. 08/2019

Reserved on 16.08.2022

Pronounced on 09.09.2025

Lateef Ahmad Mir

...Appellant/Petitioner(s)

Through: Mr. Showkat Ali Khan, Advocate.

Imtiyaz Ahmad Mir & Ors.

Vs.

...Respondent(s)

Through: Mr. I.A.Parray, Advocate.

CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

JUDGMENT

1. Adjudication of the present appeal under Section 19 of the J&K Succession Certificate Act, Svt. 1977, is literally a matter of maze for this Court to find its way out therefrom.
2. One Haji Abdul Rahim Mir, son of Ghulam Mohd. Mir, resident of Gulzarpora Rawapora Srinagar, came to demise on **08.03.2016**, leaving behind some money lying in his different bank accounts in the J&K Bank's Rawalpura Branch, Srinagar. The aggregate amount of money so lying/left in Haji Abdul Rahim Mir's bank accounts of J&K Bank was **Rs. 17,04,691/-**.
3. For the purpose of laying a claim to receive the said money from the deceased Abdul Rahim Mir's bank accounts. Imtiyaz

Ahmad Mir the respondents No.1 herein came forward with a petition under Section 6 of the J&K Succession Certificate Act, Svt. 1977 filed on **19.10.2018** before the court of Principal District Judge. Srinagar.

4. In the said petition, diarized as **File No. 155/SC**, the respondent No.1-Imtiyaz Ahmad Mir named two persons as the respondents.
5. The respondent No.1 named in the said petition was Mst. Saleema who is now the respondent No. 2 herein, and Mst. Jana as respondent No. 2, who is now the respondent No.3 herein.
6. In his said petition, the respondent No.1-Imtiyaz Ahmad Mir proclaimed himself to be the son of deceased Haji Ab. Rahim Mir and introduced the respondent No. 2 herein-Mst. Saleema as daughter of the deceased Haji Ab. Rahim Mir, and the respondent No.3 -Mst. Jana as a widow of the deceased-Haji Abdul Rahim Mir.
7. The respondent No.1-Imtiyaz Ahmad Mir did not divulge in his said petition the fact as to whether he was son of the deceased Haji Ab. Rahim Mir from Mst. Jana or from other woman as his mother.
8. The respondent No. 1-Imtiyaz Ahmad Mir in his said petition also did not disclose the fact as to whether the respondent No.2 -Mst. Saleema was his real sister or is she a daughter of

deceased Haji Ab. Rahim Mir from a different mother, be it Mst. Jana or other.

9. To this petition of the respondent No.1-Imtiyaz Ahmad Mir, the respondent No.3-Mst. Jana was the first one to come forward with a reply filed on **06.11.2018**, wherein the respondent No.3-Mst Jana came to state that respondent No.1-Imtiyaz Ahmad Mir is not the real son of the respondent No.3-Mst. Jana and further stating that the respondent No.2-Mst. Saleema is also not the daughter of the deceased-Haji Abdul Rahim Mir.
10. To add twist to the situation, the respondent No.3-Mst. Jana came disclosing that the appellant herein- Lateef Ahmad Mir is her real son without clarifying further as to whether the appellant -Lateef Ahmad Mir is the son of the deceased Haji Ab. Rahim Mir- born from respondent No.3-Mst. Jana.
11. In her reply, the respondent No.3 -Mst. Jana did not disclose as to how then the respondent No.1-Imtiyaz Ahmad Mir is claiming himself to be the son of deceased-Ab. Rahim Mir and also proclaiming the respondent No.2-Mst. Saleema as the daughter of the deceased-Haji Abdul Rahim Mir.
12. On the other hand, the respondent No.2-Mst. Saleema in her reply also filed on **06.11.2018** to the petition of the respondent No.1-Imtiyaz Ahmad Mir, came forward with a plea that she had no objection in grant of the succession certificate with

respect to the money deposit in the bank accounts of the deceased-Haji Abdul Rahim Mir being issued in favour of the respondent No.1-Imtiyaz Ahmad Mir in her favour as well and also in favour of the respondent No.3-Mst. Jana.

13. The respondent No.2-Mst. Saleema, except for stating that they three are the legal heirs of the deceased Haji Abdul Rahim Mir, did not disclose anything about relationship obtaining amongst three qua the deceased Haji Abdul Rahim Mir.
14. After the respondent No.2-Mst Saleema and the respondent No.3-Mst Jana had come to file their respective reply-cum-objections to the petition of the respondent No. 1-Imtiyaz Ahmad Mir seeking succession certificate, the appellant herein-Lateef Ahmad Mir emerged on the scene with an application filed on **17.01.2019** for seeking his impleadment as a co-respondent in the petition filed for grant of succession certificate by the respondent No.1-Imtiyaz Ahmad Mir.
15. In his application, the appellant-Lateef Ahmad Mir introduced himself as son of the deceased Haji Abdul Rahim Mir but not divulging as to who was his mother or is the respondent No.3-Mst. Jana his mother. The appellant-Lateef Ahmad Mir, however, introduced himself as being the brother of the respondent No.1-Imtiyaz Ahmad Mir.
16. To this application of the appellant-Lateef Ahmad Mir for impleadment, the respondent No.1-Imtiyaz Ahmad Mir

submitted his reply on **29.01.2019** raising and registering his objection to the very claim of the appellant-Lateef Ahmad Mir in context of the personal profile of the appellant-Lateef Ahmad Mir saying that the appellant-Lateef Ahmad Mir is the son of one Ghulam Mohi ud Din Dar resident of Ompora, Budgam.

17. Thus, the respondent No.1-Imtiyaz Ahmad Mir set up a non-relationship of the appellant-Lateef Ahmad Mir with the deceased Haji Abdul Rahim Mir and also with the respondent No.1-Imtiyaz Ahmad Mir.
18. To this application of the appellant-Lateef Ahmad Mir for impleadment, the respondent No.2-Mst. Saleema also submitted her objections stating this time that the respondent No. I-Imtiyaz Ahmad Mir was the son of the respondent No. 3-Mst. Jana from the deceased Haji Abdul Rahim Mir, whereas the respondent No.2-Mst. Saleema is the sole child (daughter) of the deceased Haji Abdul Rahim Mir out of his first marriage with her mother -Mst. Khati.
19. The respondent No. 3- Mst. Jana in her objections to the appellant-Imtiyaz Ahmad Mir's application for impleadment claimed the appellant-Lateef Ahmad Mir to be her son.
20. Thus, a very entangled situation came into picture at the very opening stage of the petition of the respondent No. 1-Imtiyaz Ahmad Mir in the matter of issuance of succession certificate

before the court of Principal District Judge, Srinagar in as much as all the four actors i.e. the respondent No.1-Imtiyaz Ahmad Mir, as being the petitioner seeking issuance of succession certificate in his favour as well as in favour of the respondent No.2-Mst Saleema and the respondent No.3-Mst. Jana and the appellant-Lateef Ahmad Mir herein but all disputing each other's status and relationship status vis-a-vis the deceased Haji Abdul Rahim Mir.

21. Things went to the extent that the respondent No.1-Imtiyaz Ahmad Mir came forward with an application on **27.04.2019** for the District Court Srinagar's indulgence for subjecting himself and the appellant-Lateef Ahmad Mir herein to DNA testing for confirming their biological relationship with the deceased Haji Abdul Rahim Mir.
22. To this application of the respondent No. 1-Imtiyaz Ahmad Mir, the appellant-Lateef Ahmad Mir had registered his objection by claiming therein for the first time that he was the son of the respondent No. 3- Mst. Jana.
23. Before the respondent No.1-Imtiyaz Ahmad Mir had stepped forward with his petition for issuance of the succession certificate filed on **19.10.2018** before the court of Principal District Judge, Srinagar, the respondent No.1-Imtiyaz Ahmad Mir and the appellant-Lateef Ahmad Mir herein were party together to a situation already obtaining between them in the

context of their claim qua the estate of the deceased Haji Abdul Rahim Mir.

24. In this regard, it is pertinent to refer here that while the deceased Haji Abdul Rahim Mir had come to demise on **08.03.2016**, the respondent No. 1-Imtiyaz Ahmad Mir and the appellant-Lateef Ahmad Mir had come to execute a joint **Special Power of Attorney** dated **19.04.2016** in favour of the respondent No. 3- Mst. Jana herein in which both the appellant-Lateef Ahmad Mir and the respondent No. 1-Imtiyaz Ahmad Mir introduced themselves as sons of the deceased – Haji Abdul Rahim Mir and the respondent No. 3-Mst.Jana as the mother.
25. The respondent No.1-Imtiyaz Ahmad Mir had filed a petition before the Divisional Commissioner Kashmir on **07.07.2017**, wherein he was complaining against Tehsildar Natipora/Chanpora, Naib Tehsildar, Sanat Nagar and Girdawar for their inaction in issuing legal heir certificate in favour of respondent No.1-Imtiyaz Ahmad Mir.
26. To this complaint of respondent No.1-Imtiyaz Ahmad Mir before the Divisional Commissioner, Kashmir against the three revenue officials being alleged in not issuing legal heir certificate in favour of respondent No.1-Imtiyaz Ahmad Mir as being legal heir of deceased Haji Ab.Rahim Mir, the appellant Lateef Ahmad Mir submitted his objections addressing

respondent No.1 Imtiyaz Ahmad Mir as his younger brother trying to get legal heir certificate only in his own name to the exclusion of the appellant-Lateef Ahmad Mir.

27. The respondent No.1-Imtiyaz Ahmad Mir by virtue of an application dated 12.07.2018 addressed to Tehsilder Chanpora/Natipora solicited issuance of legal heir certificate in his favour as well as in favour of respondent No.2-Mst. Saleema and respondent No.3-Mst. Jana as being legal heirs of deceased Haji Ab. Rahim Mir.
28. In this regard Naib Tehsildar, Sanat Nagar under Tehsilder Chanpora/Natipora vide his report No.189/NTS/TEH/18 dated 21.07.2018 submitted a report thereby submitting that there is no objector coming forward in opposition to the claim of the respondent No.1-Imtiyaz Ahmad Mir for issuance of legal heir certificate in his favour as well as in favour of respondent No. 2-Mst Saleema and respondent No.3-Mst. Jana and submitted the statements of the said three persons along-with his report.
29. The legal heir certificate No. 701/N/TCH/18 dated 05.10.2018 came to be issued by Tehsildar, Natipora/Chanpora, Srinagar only in favour of respondent No.1-Imtiyaz Ahmad Mir, respondent No.2-Mst. Saleema and respondent No.3-Mst. Jana as being son, daughter and widow of the deceased Haji Ab. Rahim Mir.

30. After procuring the legal heir certificate in his favour, the respondent No.1-Imtiyaz Ahmad Mir filed an application dated 18.01.2019 before the Deputy Commissioner, Budgam against the appellant-Lateef Ahmad Mir alleging that the appellant-Lateef Ahmad Mir has managed a State Subject Certificate in his favour by reference to his parentage as being the son of deceased Haji Ab. Rahim Mir.
31. It is in the aforesaid backdrop of facts and circumstances that the respondent No.1-Imtiyaz Ahmad Mir came forward with the institution of a petition on **File No.155/SC** on **19.10.2018** before the court of Principal District Judge, Srinagar under section-6 of the J&K Succession Certificate Act 1920 A.D in which he came to name the respondent No.2-Mst. Saleema and respondent No.3-Mst. Jana herein as two respondents without impleadment of the appellant-Lateef Ahmad Mir as a party thereto and thereby seeking issuance of succession certificate in his favour as well as in favour of respondent No.2-Mst. Saleema and respondent No.3-Mst. Jana by proclaiming to be son, daughter and widow of the deceased Haji Ab. Rahim Mir.
32. The debt and the securities for which the succession certificate came to be applied was with respect to **₹87740.68** in Saving Bank account No.280, **₹628366/-** in CCR No.1041, **₹625001/-** in CCR No.1040 and **₹363584/-** in CCR No.73927 totalling to

₹17,04,691.68, all accounts in J&K Bank Branch Rawalpura, Srinagar.

33. Upon institution of the petition for issuance of succession certificate, a notice for General Public came to be issued in the newspaper '**Kashmir Reader**' in its edition dated **21.10.2018**, besides services of respondent No.2-Mr.Saleema and respondent No.3-Mst. Jana taking place for reply/objections to the petition of respondent No.1-Imtiyaz Ahmad Mir.
34. It is the respondent No.2-Mst. Saleema who first came forward with her reply to the succession certificate petition of respondent No.1-Imtiyaz Ahmad Mir.
35. In her reply/objections, the respondent No.2-Mst. Saleema came to submit that she had no objection in the grant of succession certificate in favour of respondent No.1-Imtiyaz Ahmad Mir as being the applicant/petitioner as well as in her favour as being respondent No.1 and in favour of respondent No.3-Mst. Jana herein as being the respondent No.2 in the said succession certificate petition, as being the only legal heirs of deceased Haji Ab.Rahim Mir. In her said objections/reply, the respondent No.2-Mst. Saleema did not divulge as to what was the individual state of inter-relationship of the three persons i.e., respondent No.1-Imtiyaz Ahmad Mir, herself and respondent No.3-Mst. Jana.

36. The respondent No.3-Mst. Jana at her end came forward with her own objections also filed on **06.11.2018** stating therein that neither the respondent No.1-Imtiyaz Ahmad Mir is her son nor the respondent No.2-Mst. Saleema is her daughter. The respondent No.3-Mst. Jana submitted in her reply/objections that the respondent No.2-Mst. Saleema was not known to her as she had never seen Mst. Saleema till March 2016 when the death of Haji Ab. Rahim Mir came to take place. In her reply/objections, the respondent No.3-Mst. Jana further stated that the appellant-Lateef Ahmad Mir has been left out from the array of parties who otherwise is her real son. The respondent No.3-Mst. Jana claimed herself to be wife of the deceased Haji Ab.Rahim Mir. It further came to be pleaded in her reply-cum-objections by the respondent No.3-Mst. Jana that the respondent No.1-Imtiyaz Ahmad Mir had filed a revision before the Financial Commissioner J&K, wherein appellant-Lateef Ahmad Mir was figuring as a party but was omitted from that proceedings and that exposed *malafide* of the respondent No.1-Imtiyaz Ahmad Mir who was bent upon to grab the property of the deceased Haji Ab.Rahim Mir to the wrongful loss of the appellant-Lateef Ahmad Mir and herself. The respondent No.3-Mst. Jana in her reply stated that all the original certificates/documents pertaining to the amounts and account numbers/passbooks related to deceased Haji Ab.

Rahim Mir, were all lying with the appellant-Lateef Ahmad Mir as being the real son and, thus, prayed for issuance of succession certificate only in her favour as well as in favour of the appellant-Lateef Ahmad Mir.

37. In this backdrop of proceedings so placed with respect to petition of the respondent No.1-Imtiyaz Ahmad Mir for grant of succession certificate, the appellant-Lateef Ahmad Mir emerged on the scene with an application filed on **17.01.2019** seeking his impleadment as party to the petition projecting himself to be brother of the respondent No.1-Imtiyaz Ahmad Mir and being the real son of the deceased Haji Ab.Rahim Mir.
38. The appellant-Lateef Ahmad Mir in his impleadment application did not divulge as to whether he was the son of the deceased Haji Ab. Rahim Mir from respondent No.3-Mst. Jana, whereas the respondent No.3-Mst. Jana in her reply/objections filed on **06.11.2018** to the succession certificate petition of the respondent No.1-Imtiyaz Ahmad Mir had claimed appellant-Lateef Ahmad Mir to be her son.
39. During the pendency of the proceedings with respect to grant of succession certificate involving all the four players i.e., appellant-Lateef Ahmad Mir as well as the respondent Nos. 1 to 3 namely Imtiyaz Ahmad Mir, Mst. Saleema and Mst. Jana respectively, the respondent No.1-Imtiyaz Ahmad Mir came to address an application on **18.01.2019** to the Deputy

Commissioner, Budgam and the Deputy Commissioner, Srinagar seeking cancellation of the State Subject Certificate of the appellant-Lateef Ahmad Mir, in which appellant-Lateef Ahmad Mir is mentioned as son of Haji Ab. Rahim Mir.

40. In his said application, the respondent No.1-Imtiyaz Ahmad Mir came to mention that the appellant-Lateef Ahmad Mir's real father was Gh. Mohi-ud-din Dar resident of Ompora Budgam and that the State Subject Certificate with parentage by reference to deceased Haji Ab. Rahim Mir, is fraud. In this very application dated **18.01.2019**, the respondent No.1-Imtiyaz Ahmad Mir came to claim the respondent No.2-Mst. Saleema as his sister, already married. Mst. Saleema, as being the respondent No.1 in the succession certificate petition, in her reply/objections did not state any fact with respect to herself as being sister of the respondent No.1-Imtiyaz Ahmad Mir.
41. In order to cover up the serious suppression of facts having taken place from his end with reference to the appellant-Lateef Ahmad Mir, the respondent No.1-Imtiyaz Ahmad Mir executed a deed of revocation of Special Power of Attorney. This revocation-deed dated **25.01.2019** was made by the respondent no.1-Imtiyaz Ahmad Mir stating therein that the Special Power of Attorney executed on **19.04.2016** in favour of the respondent No.3-Mst. Jana by him joined by the

appellant-Lateef Ahmad Mir, was fraudulently procured from him.

42. It is pertinent to mention here that in this Special Power of Attorney dated **19.04.2016**, the respondent No.1-Imtiyaz Ahmad Mir and the appellant-Lateef Ahmad Mir had introduced themselves as sons of the late Haji Ab. Rahim Mir and acknowledging the respondent No.3-Mst. Jana as wife of the late Haji Ab. Rahim Mir. The respondent No.1-Imtiyaz Ahmad Mir and the appellant-Lateef Ahmad Mir announced themselves to be the legal sons of late Haji Ab. Rahim Mir but without disclosing as to from which mother/s they were begotten as sons of Late Haji Ab. Rahim Mir.
43. The respondent No.1-Imtiyaz Ahmad Mir submitted his reply/objections on **29.01.2019** to the application of the appellant-Lateef Ahmad Mir for impleadment as party in the Succession Certificate Petition.
44. The respondent No.1-Imtiyaz Ahmad Mir in his reply/objections came forward with a claim that the appellant-Lateef Ahmad Mir is actually Lateef Ahmad Dar S/o Gh. Mohi-ud-din R/o Ompora Budgam. The respondent No.1-Imtiyaz Ahmad Mir in his reply/objections went to the extent of volunteering himself and also seeking the appellant-Lateef Ahmad Mir to suffer DNA test for determining the paternity.

45. The respondent No.2-Mst. Saleema in her objections to the application for impleadment of the appellant-Lateef Ahmad Mir came to submit that the respondent No.1-Imtiyaz Ahmad Mir is the son of respondent No.3-Mst. Jana from the deceased Haji Ab. Rahim Mir, whereas she (Mst. Saleema) herself is the sole child of the deceased Haji Ab. Rahim Mir born out of her mother-Mst. Khati.
46. The respondent No.3-Mst. Jana in her objections filed on 16.02.2019 to the impleadment application of the appellant-Lateef Ahmad Mir came to assert that the appellant-Lateef Ahmad Mir is son of the deceased Haji Ab. Rahim Mir born out of her.
47. The respondent No.1-Imtiyaz Ahmad Mir at his end filed another application on **27.04.2019** seeking direction for subjecting himself as well as the appellant-Lateef Ahmad Mir to DNA test.
48. To this application for DNA testing so filed by respondent No.1-Imtiyaz Ahmad Mir, the respondent No.3-Mst. Jana submitted her objections on **22.05.2019** through Advocate Mehraj uddin Kuthoo, stating that the respondent No.1-Imtiyaz Ahmad Mir and respondent No.2-Mst. Saleema are not her son and daughter, whereas the appellant-Lateef Ahmad Mir is her real son who is having original Cash Certificate of deceased

Haji Ab.Rahim Mir as being the real son of the said late Haji Ab.Rahim Mir.

49. The appellant-Lateef Ahmad Mir in his reply/objections submitted on **01.07.2019** to the DNA testing application of the respondent No.1-Imtiyaz Ahmad Mir came to submit that he (Lateef Ahmad Mir) is the son of respondent No.3-Mst. Jana but then without disclosing the name of his father.
50. It is in this backdrop that on the basis of the statements of the respondents as their own witnesses along-with witnesses produced by the respondent No.1-Imtiyaz Ahmad Mir in the form of Nazir Ahmad Raina and Niyaz Ahmad Mir, the court of learned Principal District Judge, Srinagar by virtue of an order dated **05.09.2019** came to determine purportedly many aspects of the case.
51. Firstly, the court of learned Principal District Judge, Srinagar came to deal with the purported claim of the appellant-Lateef Ahmad Mir to be son of the deceased Haji Ab.Rahim Mir by co-relating it with the plea made for determination of paternity of the appellant-Lateef Ahmad Mir and the respondent No.1-Imtiyaz Ahmad Mir.
52. The court of learned Principal District Judge, Srinagar came to hold that whether the appellant-Lateef Ahmad Mir is the real son of the deceased Haji Ab.Rahim Mir is to be decided by a civil court in a proper civil suit adjudication whereas the scope

of adjudication in a proceeding under the J&K Succession Certificate Act, 1920 A.D was of very limited nature not admitting of determination of intricate questions of fact. On this premise, the court of learned Principal District Judge, Srinagar came to dismiss the application for his impleadment in the matter so filed by the appellant-Lateef Ahmad Mir and ousted him from the scene in relation to the adjudication of the petition of the respondent No.1-Imtiyaz Ahmad Mir for issuance of succession certificate.

53. With respect to the plea of the respondent No.1-Imtiyaz Ahmad Mir for suffering DNA test in order to confirm his own paternity viz-a-viz deceased Haji Ab.Rahim Mir, the court of learned Principal District Judge, Srinagar pressed into service the same premise of intricate question of fact not to be determined in summary proceedings meant to deal with grant of succession certificate.
54. After sidestepping this aspect related to paternity of the appellant-Lateef Ahmad Mir and the respondent No.1-Imtiyaz Ahmad Mir viz-a-viz deceased Haji Ab.Rahim Mir, the court of learned Principal District Judge, Srinagar came to deal with the question as to who *prima facie* is entitled to be granted succession certificate to collect the debts and securities of late Haji Ab.Rahim Mir.

55. In this regard, the court of learned Principal District Judge, Srinagar came to act and rely upon the legal heir certificate issued by the Revenue Authorities which purportedly confirmed the three respondents to be the legal heirs of the deceased Haji Ab.Rahim Mir and on that sole evidentiary basis held the three respondents herein to be co-entitled to earn succession certificate to the extent of their respective share with respect to the money deposit of the deceased Haji Ab.Rahim Mir in the bank accounts maintained in the J&K Bank Ltd., Branch Rawalpura.
56. The court of learned Principal District Judge, Srinagar came to hold the respondent No.3-Mst. Jana to get 1/8th share (**₹2,13,087.68**) out of the total amount of bank account money. The respondent No.2-Mst. Saleema was held entitled to get one share (**₹4,97,202/-**) out of the said bank money deposit of deceased Haji Ab.Rahim Mir, whereas the respondent No.1-Imtiyaz Ahmad Mir, as being the petitioner therein, was held entitled to two shares (**₹9,94,402**).
57. Accordingly, a succession certificate dated **02.09.2019** came to be issued in favour of the three respondents herein. All the three respondents were called upon to pay the court fees in proportion to their respective share allotted.
58. As per the fact borne out of the record of the file of the learned Principal District Judge, Srinagar, the respondent No.1-Imtiyaz

Ahmad Mir and the respondent No.2-Mst. Saleema furnished their respective indemnity bond as well as surety bond and also the requisite court fees were accordingly issued succession certificate to their defined respective share, whereas the respondent No.3-Mst. Jana's succession certificate was withheld for want of payment of court fees and furnishing of indemnity bond.

59. An application came to be made for seeking correction in the succession certificate dated **02.09.2019** with respect to the fact that an amount of **₹3,63,584/-** was in the joint account of the deceased Haji Ab.Rahim Mir and the respondent No.3-Mst. Jana which entitled the respondent No.3-Mst. Jana to 50% of the said amount to be included in her succession certificate share, whereas the rest of the amount to be distributed between the respondent No.1-Imtiyaz Ahmad Mir and respondent No.2-Mst. Saleema as per the Muslim Personal Law.
60. Accordingly, in allowing said application, an order dated **05.09.2019** was passed which revised the share of the respondent No.3-Mst. Jana who, instead of original share of **₹2,13,087.68**, came to be held entitled to an amount of **₹3,72,154.68**, whereas the respondent No.1-Imtiyaz Ahmad Mir came to be held entitled to two shares aggregating to **₹8,88,358/-**, and the respondent No.2-Mst. Saleema was held entitled to one share of **₹4,44,179/-**.

61. Thus, for the total bank deposit money of **₹17,04,691.68** the revised succession certificate dated **05.09.2019** came to be granted by the court of learned Principal District Judge, Srinagar.
62. As the respondent No.3-Mst. Jana came to furnish the requisite court fee as well as indemnity bond, so succession certificate dated **12.09.2019** came to be issued in her favour.
63. It is in the aforesaid backdrop of the facts and circumstances having taken place leading to the issuance of the succession certificate in favour of the three respondents that the appellant-Lateef Ahmad Mir came forward with the institution of the present appeal under **section 19 of the J&K Succession Certificate Act, 1920 AD** filed on **09.09.2019**.
64. Upon the institution of the present appeal, notices came to be issued to the respondents in terms of an order dated **18.09.2019** wherein this Court came to direct an amount of **₹5,96,642/-** be not withdrawn by the respondents on the basis of the succession certificate issued by the court of learned Principal District Judge, Srinagar.
65. In the light of the direction so given in the order dated **18.09.2019** of not allowing release of **₹5,96,642/-** from the bank account of the deceased Haji Ab. Rahim Mir by the three respondents on the purported basis of respective succession certificates issued in their favour, a compliance report came to

be submitted on **30.10.2019** by the Branch Manager J&K Bank Ltd., Rawalpura stating therein that the Branch Office Rawalpura of J&K Bank Ltd., came to receive the succession certificate from the end of the respondent No.1-Imtiyaz Ahmad Mir and the respondent No.2-Mst. Saleema on **09.09.2019** pursuant upon which the transfer of the money came to take place in the following manner:-

“i) An amount of Rs.9,37,414.68 was transferred to the saving account bearing No.0404040100007070 of Mr. Imtiyaz Ahmad Mir S/o Late Abdu. Rahim Mir (respondent No.1 herein) on 11.09.2019.

ii) An amount of Rs.4,68,706.68 was transferred to the saving account bearing No.0361040100040831 of Mst. Saleema Akhter D/o Haji Abdul Rahim W/o Nazir Ahmad Raina (respondent No.2 herein) on 11.09.2019.

66. It further came to be submitted in the said compliance report that an FDR of **₹3,72,154.68** came to be opened in the name of respondent No.3-Mst. Jana on **11.09.2019** and upon receiving of succession certificate dated **12.09.2019** issued by the court of learned Principal District Judge Srinagar in favour of the respondent No.3-Mst. Jana, said FDR amount of **₹3,86,890/-**

came to be transferred to the saving bank account **No. 0361040150000034** on **12.09.2019**.

67. From the compliance report of the Branch Manager J&K Bank Rawalpura, the fact came to be made clear that by the time direction in terms of the court order dated **18.09.2019** could take effect, the transfer of the entire money from the bank account of the deceased Haji Ab.Rahim Mir in favour of the three respondents as per the respective share had taken place.
68. It is in the aforesaid developed state of facts and circumstances of the case, this case came to be taken up for adjudication by this Court only to be left bewildered as to what sort of appreciation and appraisal of facts and evidence was given by the learned Principal District Judge Srinagar to the case *ex facie* obtaining on the record of the file speaking at the top of the voice that not only the respondents namely Imtiyaz Ahmad Mir, Mst. Saleema and Mst. Jana but also the appellant-Lateef Ahmad Mir were found not speaking the truth even if this Court were to abstain from observing that in-fact all the three respondents as well as the appellant were indulging in falsehood in one disguised form or the other.
69. By the time, the respondent No.1-Imtiyaz Ahmad Mir had come forward as a petitioner before the court of learned Principal District Judge Srinagar on **19.10.2018** with the Succession Certificate Petition there was already a state of

facts in place in which the respondent No.1-Imtiyaz Ahmad Mir and the appellant-Lateef Ahmad Mir were jointly claiming themselves to be the sons of late Haji Ab.Rahim Mir and the respondent No.3-Mst. Jana, as being his widow, though not stating whether she being their mother or not.

70. This fact was obtaining in the form of special Power of Attorney which was very much in the public domain and amounted to a public declaration and acknowledgment on the part of the respondent No.1-Imtiyaz Ahmad Mir and the appellant-Lateef Ahmad Mir.
71. This Court would stay away from making any observation with respect to the status of the respondent No.2-Mst. Saleema to be daughter or not of late Haji Ab.Rahim Mir and the respondent No.3-Mst. Jana as widow of the deceased Haji Ab.Rahim Mir.
72. However, there is no doubt as to the fact that all the four actors in the case i.e., appellant-Lateef Ahmad Mir and three respondents namely Imtiyaz Ahmad Mir, Mst. Saleema and Mst. Jana through their respective pleadings in the case, be it in the form of petition, objections to the petition, application/objections to the application, are found speaking differently on different occasions as if to cover up the real truth and present half truth and half falsehood so as to subserve their vested individual purpose.

73. This Court is on acceptance of fact that the respondent No.3-Mst. Jana is the widow of the deceased Haji Ab.Rahim Mir and the respondent No.2-Mst. Saleema is the daughter of deceased Haji Ab.Rahim Mir and therefore, they were well entitled to the succession certificate issued in their favour, leaving it only now a matter between the appellant-Lateef Ahmad Mir and the respondent No.1-Imtiyaz Ahmad Mir against both of whom this Court first thought of subjecting them to suffer proceedings for indulging in sheer perjury in legal proceedings before the court of learned Principal District Judge Srinagar, and before that before the revenue authorities concerned in terms of their respective claims and status viz-a-viz deceased Haji Ab. Rahim Mir but then considering the fact that both appellant –Lateef Ahmad Mir and the respondent No.1-Imtiyaz Ahmad Mir in terms of the special Power of Attorney dated **19.04.2016** duly notarized claimed themselves to be the legal sons of late Haji Ab.Rahim Mir, as such, this Court would lend an acceptance to the fact that both appellant-Lateef Ahmad Mir and the respondent No.1-Imtiyaz Ahmad Mir were and are equally entitled to the succession certificate and therefore, the court of learned Principal District Judge, Srinagar erred in excluding the appellant-Lateef Ahmad Mir and entertaining the respondent No.1-Imtiyaz Ahmad Mir in

earning the succession certificate with respect to the bank account money of the deceased Haji Ab.Rahim Mir.

74. Accordingly, the order dated **31.08.2019** of the learned Principal District Judge Srinagar is modified to the extent by holding the appellant-Lateef Ahmad Mir also entitled to succession certificate with respect to the money deposit of the deceased Haji Ab.Rahim Mir along-with the respondent No.1-Imtiyaz Ahmad Mir.
75. The next question for this Court to consider is as to how much amount appellant-Lateef Ahmad Mir is to be held entitled to have the succession certificate issued in his favour.
76. This Court is not disturbing the succession certificates issued in favour of the respondent No.2-Mst. Saleema and the respondent No.3-Mst. Jana to whatever share they came to be held entitled to and therefore, their succession certificate would remain intact.
77. However, in so far as the succession certificate to the amount of **₹8,88,358/-** issued exclusively in favour of the respondent No.1-Imtiyaz Ahmad Mir is concerned, it is the said amount which is to be now apportioned equally between the appellant –Lateef Ahmad Mir and the respondent No.1-Imtiyaz Ahmad Mir and, accordingly, the court fees also payable thereupon to be apportioned equally between the appellant-Lateef Ahmad Mir and the respondent No.1-Imtiyaz Ahmad Mir. To this

extent, the court of learned Principal District Judge Srinagar is directed to revise the succession certificate by calling upon the respondent No.1-Imtiyaz Ahmad Mir to deposit the share of the appellant-Lateef Ahmad Mir with it i.e., the court of learned Principal District Judge Srinagar, whereupon the said amount along-with the succession certificate to be issued in favour of the appellant-Lateef Ahmad Mir.

78. Disposed of in terms of the above.

Srinagar
09.09.2025
Muzammil. Q (Secy.)

 (RAHUL BHARTI)
JUDGE