

## **Transfer of shares of deceased member to Nominee/s in Co-operative Housing society.**

After amendment of Maharashtra cooperative societies act 1960 (Act) w.e.f. from 9<sup>th</sup> March 2019 there has been notable clarity in the matter of transfer of shares in cooperative housing societies (Societies) on demise of its member. However, Rules have not been prescribed so far and even the Bye laws have not been amended for proper procedure in compliance of the amended law. The societies have therefore to take the decision based on the amended law reconciling with the present rules and bye laws.

Prior to amendment it was compulsory for the societies to admit the nominee as member on demise of its member and in absence of nomination the authority rested with the managing committee to invite a person who in its opinion was legal heir of the deceased member of the society. Bylaws 34 and 35 prescribe the procedure in this regard. In terms of those provisions the Supreme Court has laid down that society does not have the authority to refuse transfer of shares of the deceased member to the nominee. However, after amendment of the law this position is changed to certain extent for transfer to legal heirs.

The legal heirs of the deceased member have been given the right to approach the Society with any one of the four documents namely, testamentary document (WILL written by deceased member) or succession certificate or heirship certificate or family settlement agreement for transfer of share, right, title, and interest of the deceased member in the society.

There is also a provision that if nomination filed by the deceased member, then the society may admit the nominee as **provisional member** of the society. There is further provision that if there is no nomination and legal heirs of the deceased member do not come forward for claiming transfer of share, right, title and interest then in that case the society has been given right to invite any person who in its opinion is the legal heir of the deceased to apply for the membership of the Society and transfer of shares to such person's name and on compliance of the prescribed procedure such person will be admitted as **provisional member**.

**Provisional Member** is defined as a person who is duly admitted as a member of a society temporarily, after death of a member on the basis of nomination till the admission of legal heir or heirs as the member of the society in place of deceased member.

I will analyse the provision for **admission of legal heirs** as member of society and transfer of share, right, title, and interest of the deceased member in my next article.

You may contact me on **9322274969** or write to me on my email ID **info@hmsuthar.com** for any clarification or visit my website **www.Anantstrata.com** for my YouTube videos and my PowerPoint presentations as well as articles on this and other topics.

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