



इण्डियन ओवरसीज़ बैंक Indian Overseas Bank

विधि विभाग, केन्द्रीय कार्यालय ,चेन्नै Law Department, Central Office, Chennai.

Standard Operational Procedure Release of Movable/Immovable Property Documents on Repayment/Settlement of Personal Loans

Once the Loan is repaid fully or settled as per the terms of the settlement between the Bank and the Borrower/Guarantor/Legal Heirs, the title documents or any other security documents are to be released to them within the timeline specified by CSSD, CO, in the above circular dated 01.12.2023.

While releasing such documents, the procedure to be adopted by Branches is provided as follows: -

- 1. Procedure for Release of Immovable Property Documents to the Borrower/Guarantor**
 - 1.1. As per the above stipulation, Branches are obligated to release the movable/immovable property documents within 30 days after full repayment/settlement of the loan account. If the mortgagor is not coming forward to receive the documents within 30 days from the date of closure of the loan, the Bank will not have any proof that we were ready to return the documents. Hence, after closure of Loan Account, Branch to send a letter through Registered Post or by hand delivery against acknowledgement to the Borrower/Guarantor advising him to collect the security documents. Branch to keep a copy/acknowledged copy of the letter along with proof of service in the Loan Account file of the said borrower/guarantor to produce the same before any legal forums/courts before whom compensation may be claimed, to prove that bank was willing to return the documents on closure.
 - 1.2. On the other hand, when the mortgagor approaches the Branch requesting for release of title/security documents, Branch may obtain a request letter from him for release of the title documents. Wherever the Branch deems fit, the request letter may be waived at its discretion.
 - 1.3. On verifying the details of the Borrower/guarantor, Branch to release the document/s against due acknowledgement by them in the title deed

register. The discharge of mortgage and charges registered with any registry such as ROC, CERSAI etc are to be cancelled within 30 days and before releasing the title/security documents.

- 1.4. If notice of a second mortgage has been received, the written consent of the second mortgagee should be obtained for the release.
- 1.5. If the said property is also mortgaged to some other Loan availed by the borrower/guarantor, mortgaged documents should not be released unless and until the said loan is repaid/settled.
- 1.6. If there are proper reasons under which documents could not be released within 30 days, such as the documents are in any Courts/DRT/DRAT etc or the reasons for delay are attributable to the mortgagor, the same is to be communicated to him and a copy is to be kept with the file to avoid payment of compensation in future.

2. Procedure for Release of Immovable Property Documents to Legal Heirs where the property is owned solely by the Deceased Borrower/Mortgagor

In the event of death of mortgagor and the title/security documents are claimed by the legal heirs, the below procedure should be followed by the Branch, on closure of loan.

A. Release of documents to Legal Heirs without Legal Representation

In case there is no Legal Representation (court orders) on behalf of the legal heir/s, Branch to obtain Following documents from the Legal Heirs or claimants to release the original document/s:-

- (i) Request Letter from all the Legal Heir/s to release the original documents.
- (ii) Wherever legal heirs could not come in person to receive the documents, they have to execute Power of Attorney duly notarised in favour of the claimants and the same is to be provided to the Branches.
- (iii) Death Certificate of the Deceased mortgagor.
- (iv) Legal heirship Certificate issued by Competent Authority. It is observed that only few States are issuing the legal heirship certificate. Hence, Branches may accept Relationship Certificate/Family Tree Membership Certificate, or any certificate issued by a competent revenue authority/Village Officer that declares the legal heirs.

- (v) If the legal heirs are expressing difficulty in obtaining the legal heirship certificate and the Branch is satisfied with the genuineness of the legal heirs, the Branches may waive production of Legal heirship certificate and release the documents based on affidavit from two respectable persons unconnected with the loan account, confirming that the claimant/s is/ are the Legal Heir/s of the deceased mortgagor.
- (vi) Proof of identification of all legal heirs/ claimants such as Voter ID Card, PAN Card, Passport, Aadhar or any other satisfactory proof of identification acceptable to the Bank.
- (vii) **Indemnity Letter from the Legal Heirs/claimants for indemnifying the Bank against any loss or damage due to any other claim any claims that the Bank may receive from any other person.**
- (viii) On receipt of all the above documents and on verification of veracity of the claim for return of title deeds/security documents, the same can be released to the legal heirs / claimants as the case may be.
- (ix) To avoid any dispute, branches may endeavour to return the documents against the acknowledgement of all the legal heirs.
- (x) On release of title document, acknowledgment against the receipt of original documents should be obtained from the Legal Heirs/ Claimants in the Title Deed Register.
- (xi) In case of any dispute among the Legal Heirs of deceased mortgagor or genuineness of the legal heirs are not clear Branches may insist for legal representation (court orders) for release of title documents.
- (xii) If one of the legal heirs is a minor, then the natural guardian as per the applicable personal law can claim the documents on his behalf.
- (xiii) In the absence of natural guardian, the claim on behalf of the minor can be submitted by the guardian appointed by the Court along with valid OVD of the legal guardian.
- (xiv) The minor legal heir should not sign the title deed register for acknowledging the receipt of documents and only the natural/legal guardian can sign the title deed register on behalf of the minor.

In respect of Clause (xi) to (xiii), Branch should have record that they are ready to release the title deed subject to production of supporting documents as required under these Clauses.

B. Release of documents based on Will

- A. If the deceased borrower/mortgagor has left any Will, the beneficiaries under the Will, can claim the documents. Hence, branch should call for the Will and scrutinize it to ascertain whether the testator has bequeathed his immovable property(ies) mortgaged with our Bank to the claimant (Beneficiaries under the Will). A declaration should be obtained from all the legal heirs stating that the Will produced to the Bank is the last Will of the deceased and the same was not cancelled or amended during the lifetime of testator (mortgagor) and requesting the Bank to act upon the Will for release of title document. The consent to be obtained from legal heirs as per **Annexure "A"**.
- B. The States where probate of Will is Mandatory, Branches to release the documents as per the probate order issued by the Court.
- C. In case of dispute between the beneficiary under the Will and other Legal Heirs of deceased mortgagor, Branches to insist for succession Certificate or probate order of the Will or court orders. Branch should have record that they are ready to release the title deed subject to production of supporting document/s as required under this Clause.

C. Release of Documents on production of Legal Representation (Succession Certificate, Probated Will, Letter of Administration etc.)

- A. Where any legal heir or the claimant of the title document, claims release of title deeds based on court orders such as Succession Certificate, Probated Will or Letters of Administration it is treated as release of title deeds based on Legal Representation. If Succession Certificate/ Probated Will/Letter of Administration has been issued in favour of any person/s by the Court of Law that person/s alone will be entitled to receive the original documents. Branches need not insist for death certificate of deceased mortgagor in that case.

Where a legal representation along with required documents is produced by the legal heir/claimant, Bank is legally bound to release the title deeds as per the order of the court, to the person mentioned therein. The bank will get a valid discharge by handing over title deed/s to the person named in the court orders, after verification of his identity by Branch.

However, before release of title deeds based on legal representation, Branch/RO to ensure that order copy is genuine, issued by competent courts and that there are no stay orders from any courts received by Branch/ RO.

Following Documents should be obtained by the Branch to release the original documents on the basis of legal representation: -

- (i) Request Letter from the legal heir/claimant to release the original documents.
- (ii) Any proof of identification of claimants to the satisfaction of the Branch such as Voter ID Card, PAN Card, Passport, Aadhar or any other satisfactory proof of identification acceptable to the Bank.
- (iii) Copy of Succession Certificate or Probate order of Will or court order issued by competent courts.
- (iv) Branch to verify the above documents with the originals and ensure the genuineness of the same. In case of any doubt about the genuineness of the court orders, Branch may take the assistance of panel advocates to verify the same from the Court.
- (v) On satisfied with the documents produced and the court orders, the Branches may release the documents to the person entitled for the same as per the court order/s.
- (vi) On release of title deeds, acknowledgment against the receipt of original documents should be obtained from the Claimant/s in the Title Deed Register duly recording the details of the court order, based on which the title documents are released.

General Instructions

- 1. Mortgagor/Legal Heir/Claimant cannot be physically present for receiving the Documents:** The title deeds and the property documents can also be handed over to Power of Attorney – (POA) holder of the mortgagor/legal heirs/claimants. This is applicable when the mortgagor or any of the Legal heirs/claimants are not able to visit the Branch for receiving and acknowledging the receipt of title deeds in the title deed register.

The POA given in favour of any of the claimants should be duly stamped and notarized as per Stamp laws applicable to the respective State and should be valid till the time the documents were released. Hence, at the time of release, confirmation from mortgagor/legal heirs/claimants that the POA is not cancelled is to be obtained and kept with records. POA holder has to sign in the title deed register as Constituted Attorney of _____ (POA issuer”).

If any POA is executed outside India, the same is to be attested by Consulate General of India/ High Commission of India/ Indian Embassy and the same is to be stamped within 3 months from the date of receipt in India as per the stamp duty of the state where the documents are to be released.

2. In case the property is jointly owned with the deceased: .

Following Documents should be obtained by Branch to release the documents in favour of joint owner: -

- (i) Request letter from the surviving owner (mortgagor) and the legal heirs of deceased mortgagor or the persons entitled to receive the title deeds of the deceased mortgagor based on Will or Court order such as Succession Certificate etc., informing the death of the person and for release of the title documents.
- (ii) Death Certificate of the deceased joint owner.
- (iii) Legal Heirship Certificate of deceased joint owner.
- (iv) In the absence of Legal heirship Certificate of deceased joint owner, Branches may accept Relationship Certificate/Family Tree Membership Certificate, or any certificate issued by a competent revenue authority/Village Officer that declares the legal heirs.
- (v) If the legal heirs are expressing difficulty in obtaining the legal heirship certificate and the Branch is satisfied with the genuineness of the legal heirs, the Branches may waive production of Legal heirship certificate and release the documents based on affidavit from two respectable persons unconnected with the loan account, confirming that the claimant/s is/ are the Legal Heir/s of the deceased mortgagor.
- (vi) Identity proof and KYC documents of all the Legal Heirs.
- (vii) On verification that the legal heirs are genuine and they have submitted the claim with the surviving owner, the branches may release the title deeds/security documents to the Surviving owner

and the legal heirs against their acknowledgment in Title Deed Register for having received the original title documents.

2. Procedure for Release of documents deposited by Borrower to avail loan against movable property such as Deposit Receipt/LIC Receipt/NSC Receipt/ Bond and share certificate if it is not in dematerialised form

1. Release of Documents to the Borrower/guarantor who pledged

Branches to adopt the same procedure as mentioned above for release of Immovable Property Documents to the Borrower/Guarantor.

2. Release of Documents to the Legal Heirs if the borrower/guarantor dies

Branches to adopt the same procedure as mentioned above for release of Immovable Property Documents to Legal Heirs/Claimants.

**CONSENT CUM NO OBJECTION LETTER
TO BE EXECUTED BEFORE A NOTARY PUBLIC**

PLACE:

DATE:

To,
The Manager
Indian Overseas Bank
_____ Branch
Sir,

**DELIVERY OF ORIGINAL TITLE DEED/SECURITY DOCUMENTS, MORTGAGED/PLEDGED BY
SH/SMT----- , AS BORROWER/GUARANTOR IN THE ACCOUNT OF -----
-----**

Shri/Smt,----- HINDU / BUDDHIST / SIKH /JAIN / PARS
MOHAMMEDAN, availed loan from the Bank/ stood as Guarantor in the Account of -
-----and deposited the original title deed/ security documents with
your Branch.

Shri/Smt----- died on..... leaving behind him/her a WILL dated
.....a copy of which is enclosed.

I/we_____the legal heir/s hereby confirm that the said WILL
dated_____ is his / her last WILL and the same has come into force and has
been acted upon.

I /We the legal heir/s hereby give our consent and I / We have no objection for your
bank acting upon the WILL and delivering/returning the original security documents,
mortgaged by Sh/Smt----- to the legatee/s under the WILL without
insisting for a probate / letter of administration of the WILL.

Yours faithfully,

1.
2.
3.
4.
5.

(LEGAL HEIRS)