

No.24/1/75-CDN
Government of India
Ministry of Urban Development & Poverty Alleviation
Land & Development Office

New Delhi, dated October 20, 2000

OFFICE MEMORANDUM

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Subject: Substitution/mutation of properties on the basis of the Will – Levying of unearned increase.

In supersession of all previous orders on the subject, it has been decided as under:

~~(i) Where the deceased lessee leaves a 'will' in favour of the following family member(s), the property will be substituted without charging any unearned increase after obtaining necessary documents as already prescribed:~~


“ Husband/wife, as the case may be, mother, father, son, daughter, grandson/granddaughter and daughter-in-law and also brother and sister in case the Testator does not have any child of his own”

(In the above definition, son/daughter will include adopted son/adopted daughter, as the case may be.)

(ii) Where the deceased lessee leaves a will in favour of a person/persons other than the family members as defined in (i) above, unearned increase will be chargeable as per the provisions of the lease deed before carrying out mutation in favour of such person/persons after obtaining requisite documents as prescribed.

2. The crucial date for the purpose of recovery of unearned increase would be fixed as under :

- i) The date of death of the last lessee in case application is moved within six months of the date of death. The beneficiary of the 'Will' is not expected to move application for mutation on the date of death of the lessee itself or immediately thereafter. The period of six months is the reasonable period within which such an application is moved. The application should be complete in all respects including no objection affidavits of the legal heirs/probate of the 'Will'.
 - ii) In case the application is moved within 6 months of the date of death of the Lessee but it is not accompanied with no objection affidavits of the legal heirs and the applicant subsequently obtained Probate of the 'Will' because the legal heirs have not cooperated to furnish the no objection affidavits, in such cases also, ~~date of death of the lessee should be taken as the crucial date provided the Probate is furnished within 3 months of its grant.~~
 - iii) In case application is moved after six months of the date of the death of the lessee, the date of receipt of complete application including no objection affidavits/probate should be the crucial date.
3. The above instructions will come into force with immediate effect.
4. This issues with the approval of Finance Division vide their Dy. No. 2172/AS(F)/2K dated 18.10.2000.


(Dr. Rajesh Kumar)

Land & Development Officer

To

All Branch Officers/Superintendents/Sections in L&DO

Copy for information to:

PS to JS(DL)/PS to L&DO/PRO(L&DO)/Finance Division.