

GAHC030003072023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : RFA/21/2023

Smt. Lalramthari and 3 Ors.
ex-W/o Lalremruata (L)
R/o Thakthing Dam Veng, Aizawl

2: Ms. Zarzokimi

3: Ms. Lalrinmawii

4: Lalpekhlu

VERSUS

Smt. Lalbiakdiki
W/o Lalremruata (L)
R/o Mission Veng, Aizawl

Advocate for the Petitioner : Mr C Zoramchhana

Advocate for the Respondent : Mr B Lalramenga

ORDER

B E F O R E

HON'BLE MR. JUSTICE NELSON SAILO

03.08.2023

Heard Mr. C Zoramchhana learned counsel for the appellant and Ms. Ruthi Vanlalhruaii learned counsel for the sole respondent.

[2.] By filing this Regular First Appeal, the appellant has challenged the Order dated 21.03.2023 passed by the learned Senior Civil Judge-III, Aizawl in Heirship Certificate Application No. 518/2023 by which Heirship was granted to the respondent in respect of two vehicles Scorpio and Bolero ZLX bearing Registration Nos. MZ01 X-2221 and MZ01-0524 respectively, left behind by Sh. Lalremruata who expired on 09.02.2023.

[3.] The appellant No. 1 is the first wife of late Sh. Lalremruata and the appellant Nos. 2 & 3 are their children while the respondent is the second wife. According to the appellants, without issuing any notice inviting objection on the application for Heirship Certificate for the two vehicles, the learned Trial Court in the application for Heirship Certificate filed by the respondent on 15.03.2023, issued the impugned Order dated 21.03.2023 granting Heirship Certificate to the respondent. Therefore, the impugned order as well as the Heirship Certificate should be set aside.

[4.] Ms. Ruthi Vanlalhruaii, learned counsel for the respondent submits that no doubt Heirship Certificate was issued without issuance of notice but the respondent in the application for Heirship Certificate had enclosed all the essential documents and the learned Trial Court upon considering the same issued the Heirship Certificate.

[5.] I have heard the submissions made by the learned counsels for the rival parties.

[6.] The admitted fact is that no notice was issued prior to issuance of the Heirship Certificate. It is clear from the appeal filed by the instant appellants that they also have a claim to the vehicles in question on account of being the first wife and the children of the deceased Sh. Lalremruata. Therefore, as the appellants have not been heard before the issuance of the Heirship Certificate, the matter is remanded back to

the learned Senior Civil Judge-III, Aizawl for fresh consideration by giving due opportunity to the parties concerned to project their respective claim over the property in question.

[7.] Since both the parties are represented today, they are directed to appear before the learned Senior Civil Judge-III, Aizawl on **08th August, 2023** whereafter, the learned Trial Court shall proceed with the matter in accordance with law and come to a logical conclusion after giving reasonable opportunity to the rival parties. The impugned Order dated 21.03.2023 as well as the Heirship Certificate, are hereby set aside. It is also made clear that any observation made in this order shall not affect the learned Trial Court in coming to its own independent decision.

JUDGE

Comparing Assistant