

GAHC030000602022



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

Case No. : RFA/6/2022

Lalmuanpuui
W/o Andrew Lalrinkima (L)
R/o Tuikual North
Aizawl, Mizoram

VERSUS

Lalchhuanawmi and 4 Ors.
M/o Andrew Lalrinkima (L)
R/o Tuikual North,
Aizawl, Mizoram

Advocate for the Petitioner : Mr B Lalramenga

Advocate for the Respondent : Mr Samuel Vanlalhriata Chhangte for R2 - R5

Linked Case : I.A.(Civil)/21/2022

Lalmuanpuui
W/o Andrew Lalrinkima (L)
R/o Tuikual North

Aizawl
Mizoram

VERSUS

Lalchhuanawmi and 4 Ors.
M/o Andrew Lalrindika (L)
R/o Tuikual North

Aizawl
Mizoram

Advocate for the Petitioner : Mr B Lalramenga
Advocate for the Respondent :

BEFORE
HONOURABLE MRS. JUSTICE MARLI VANKUNG
JUDGEMENT

Date : 23-01-2024

Mr. Lawmawma Ralte appears on behalf of his senior, Mr. B. Lalramenga, learned counsel for the appellant along with Mr. Aldrin Lallawmzuala, learned counsel for the main respondent No. 1, while respondent Nos. 2 to 5 are the proforma respondents.

2. It is seen that the instant Regular First Appeal has been filed against the impugned Order dated 17.01.2022 passed by the Court of Senior Civil Judge-III, Aizawl in SC No. 5/2022 granting Succession Certificate to the respondent No. 1 in respect of the money kept in one Saving Bank Account and 3 (three) Fixed Deposit Accounts by the late Andrew Lalrinkima of Tuikual North. It is seen that the appellant is the wife of late Andrew Lalrinkima and respondent No. 1 is the mother. The Succession Certificate was issued on the same day the application was made without issuing any notice to the appellant.

3. Mr. Aldrin Lallawmzuala, learned counsel for the respondent No. 1 in all fairness submits that he has conceded to the fact that no notice was issued by

the learned Trial Court before issuing the Succession Certificate to the respondent No. 1 in respect of the Bank Account and Fixed Deposit kept by the late Andrew Lalrinkima. The learned counsel for the respondent No. 1 submits that he has no objection to the prayer made by the appellant for referring the matter back to the learned Trial Court for Denovo trial of the matter.

4. In view of the submission made by the learned counsel for the respondent No. 1, this Court finds it fit to set aside and quashed the impugned Order dated 17.01.2022 passed by the Court of Senior Civil Judge-III, Aizawl in SC No. 5/2022 granting Succession Certificate to the respondent No. 1 since no notice was issued and the appellant was not given the opportunity to contest the application made by the respondent No. 1 for issuance of Succession Certificate. The matter is remanded back to the learned Trial Court to consider the matter afresh by giving an opportunity to the instant appellant to contest the said application for issuance of Succession Certificate in respect of the money kept in one Saving Bank Account and 3 (three) Fixed Deposit Accounts by the late Andrew Lalrinkima. The learned trial court shall ensure that a fair and equal opportunity is given to both the parties to adduce their evidences before the Court. Thus, both the parties are to appear before the learned Trial Court in person or through their counsels on 16.02.2024 for further necessary steps.

5. Accordingly, RFA No. 6/2022 stands disposed of as above.

JUDGE

Comparing Assistant