

GAHC030002852024



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

Case No. : RFA/17/2024

Smt. Laldinsangi Pautu
D/o Lalremsanga (L),
R/o Dawrpui, Aizawl, Mizoram

2: Smt. Lalnunpuii Pautu

VERSUS

Smt. Vanchhingpuii
M/o Lalremsangi (L),
R/o Mission Veng, Aizawl, Mizoram

Advocate for the Petitioner : Mr. J H Ramneihmawia

Advocate for the Respondent :

ORDER
B E F O R E
HON'BLE MR. JUSTICE NELSON SAILO

07.05.2024

Heard Mr. J H Ramneihmawia, learned counsel for the appellants, who submits that the appellants, being aggrieved with the Order dated 29.02.2024 passed by the learned Civil Judge (Senior Division)-I, Aizawl Judicial District, Aizawl in Heirship Certificate Case No. 221/2024 granting Heirship Certificate in favour of the sole respondent, has filed the instant appeal under Section 96 of the Code of Civil Procedure, read with Section 17(2)(6) of the Mizoram Civil Courts Act, 2005. The learned counsel submits that the appellants are the daughters of Sh. Lalremsanga who expired on 06.12.2023 leaving behind certain landed properties. Sh. Lalremsanga is the son of Sh. B.T Sanga(L) and Smt. Vanchhingpuii (the respondent herein). Sh. Lalremsanga(L) has two sisters namely; Smt. Zoliansangi and Smt. Zorinsangi. The respondent, after obtaining No Objection Certificate from her two daughters, applied for the Heirship Certificate. The father of the appellants expired on 06.12.2023 and since he is the owner of the properties left behind by him, the appellants have every right to the properties as his legal heir. However, without the knowledge of the appellants, the respondent applied for Heirship Certificate and accordingly, the learned Court, after admitting the Heirship Certificate Application filed on 28.02.2024, granted the impugned Heirship Certificate the next day i.e. on 29.02.2024. Aggrieved, the appellants are before this Court.

[2.] From the perusal of the materials available on record and upon hearing the learned counsel for the appellants, it appears that the learned Trial Court, being satisfied with the No Objection Certificate issued by the two daughters of the

respondent, granted the Heirship Certificate. However, the two appellants who are said to be the daughters of late Sh. Lalremsanga have neither been issued notice nor were consulted by the respondent before applying the Heirship Certificate for the properties left behind by late Lalrinsanga. Therefore, there being clear violation of the principles of natural justice.

[3.] The appeal is therefore disposed of at this stage by remanding the matter back to the learned Trial Court for fresh consideration after giving opportunity to the appellants to project their case. The learned Trial Court should also give opportunity to any other interested person in the property in question before taking a decision on Heirship Certificate Application. It is needless to mention herein that the impugned Order dated 29.02.2024 granting Heirship Certificate Application No. 221/2024 and the Heirship Application itself are hereby set aside.

[4.] The appellants shall appear before the learned Trial Court on 13th of May, 2024 along with a certified copy of this order whereafter, the learned Trial Court shall issue notice to the respondent and thereafter, proceed with the matter in accordance with law.

[5.] Before parting with the records, it is noticed that a certified copy of the Order dated 29.02.2024 passed by the learned Trial Court in Heirship Certificate Application No. 221/2024 has been annexed to the instant appeal in original. Upon perusal of the same, it appears that the same has been issued under the seal and signature of the Chief Administrative Officer, Aizawl Judicial District, Aizawl. However, the certified copy does not reflect the name of the parties concerned, the case number and the name of the Judicial Officer who passed the order. Therefore, from a plain reading of the Order dated 29.02.2024, one cannot make out as to in which case the said order has been passed. This Court expects that henceforth, certified copy of the order applied for and issued to the parties concerned should

be in a proper format i.e. containing all the necessary particulars. A copy of this order be sent to the learned District & Sessions Judge, Aizawl for his information and necessary action.

[6.] The appeal is accordingly stands disposed of.

JUDGE

Comparing Assistant