

GAHC030005982023



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

Case No. : CRP/11/2023

Lalnunpara
S/o Khawvelthanga (L), R/o Chhing Veng, Aizawl Mizoram

VERSUS

Sh Lalmuanpuia and 2 Ors.
S/o Khawvelthanga (L), R/o Chhing Veng, Aizawl Mizoram 2:Edward
Lalnunnema
S/o Lalhriatpuia (L)
Ramhlun Venglai
Aizawl Mizoram

3:Simon Lalhmunsanga
S/o Lalhriatpuia (L)
Ramhlun Venglai
Aizawl Mizora

Advocate for the Petitioner : Mr A.R. Malhotra

Advocate for the Respondent : Mr F Lalenglana for R1-R3

ORDER
BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

10.04.2024

Heard Mr. C. Tlanthianghlina, learned counsel for the petitioner. Also heard Mr. F. Lalenglina, learned counsel for all the respondents.

2. This revision petition has been filed under Section 115 CPC against the impugned Order dated 30.08.2023 passed by the Court of Senior Civil Judge-III, Aizawl in CMA No. 327/2023 arising out of Title Suit No. 1/2023.

3. The respondent Nos. 2 & 3 had been impleaded vide the impugned order and it is the case of the petitioner that the respondent Nos. 2 & 3 are not necessary parties and thus, have no *locus standi* to ask for a share of the property, which belonged to their grandmother. The petitioner and the respondent No. 1 are the sons of the grandmother of the respondent Nos. 2 & 3.

4. Section 115 CPC provides that the High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate Court appears-

- (a) to have exercised a jurisdiction not vested in it by law, or
- (b) to have failed to exercise a jurisdiction so vested, or

(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity,

the High Court may make such order as it thinks fit.

5. On a perusal of the impugned Order dated 30.08.2023, this Court does not find that the learned Trial Court has exercised jurisdiction not vested in it by law. There is nothing to show that the jurisdiction exercised by the learned Trial Court is illegal or made with material irregularity.

6. The issue whether the impleaded respondents have a right to a share the property of their deceased grandmother would be decided by the learned Trial Court, in terms of the law of inheritance applicable as per the Mizo Customary Law and/or the Statutory Law. As such, this Court does not find any ground to interfere with the impugned order passed by the learned Trial Court.

7. The CRP is accordingly dismissed.

JUDGE

Comparing Assistant