

GAHC030007072023



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

Case No. : I.A.(Civil)/163/2023

Sh. K. Lalvuana and 2 Ors.
S/o Rokamlova (L),
R/o Phullen,
Saitual District, Mizoram 2: Sh. Lallawma
S/o Rokamlova (L)

R/o Phullen

Saitual District
Mizoram

3: Smt. Vanlalzuali
D/o Rokamlova (L)

R/o Phullen

Saitual District
Mizora

VERSUS

Smt. Lalrualkimi Khiantge
D/o Rokamlova (L),
R/o Ramthar Veng, Aizawl, Mizoram

Advocate for the Petitioner : Mr B Lalramenga

Advocate for the Respondent : Mr. S. Vanlalhriata

Linked Case : RFA/51/2023

Sh. K. Lalvuana and 2 Ors
S/o Rokamlova (L)
R/o Phullen
Saitual District
Mizoram

2: Sh. Lallawma
S/o Rokamlova (L)
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VERSUS

Smt. Lalrualkimi Khiangte
D/o Rokamlova (L)
R/o Ramthar Veng
Aizawl
Mizoram

Advocate for the Petitioner : Mr B Lalramenga
Advocate for the Respondent : Mr. S. Vanlalhriata

B E F O R E

HON'BLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

20.05.2024

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Heard Mr. B. Lalramenga, learned counsel for the applicants. No one appears for the sole respondent, even though this case had been fixed for today with the consent

of the parties on 16.05.2024.

2. This is an application under Section 5 of the Limitation Act, 1963 for condonation of delay of 476 days in filing an appeal against the Order dated 27.05.2022 passed by the Court of the Senior Civil Judge-IV, Aizawl in Heirship Application No. 1113/2022, granting Heirship Certificate to the respondent in respect of land covered by LSC No. 474/1976 and LSC No. AZL 588/1974, which was in the name of her deceased father Rokamlova.

3. The case of the applicants is that the Heirship Certificate was issued without notice being given to the applicants, besides no issue being framed or evidence being recorded before the learned Trial Court. The reasons for condoning the delay, as made out by the applicants, is that as no notice was issued to the applicants who are the sons and daughter of the deceased Rokamlova, prior to passing of the impugned Order dated 27.05.2022. Thus, they were not in the knowledge of the impugned Order that is being put to challenge in the appeal.

4. The applicants came to know of the issuance of the Heirship Certificate, only after an RCC Building was being constructed over the land covered by LSC No. 474/1976 by the respondent and an enquiry had been made. They came to know the fact that the Heirship Certificate had been surreptitiously obtained from the learned Trial Court, behind the backs of the applicants.

5. The impugned Order dated 27.05.2022 passed in Heirship Application No. 1113/2022 is reproduced herein below as follows:-

“ORDER

This is an application for issuance of Heirship Certificate u/s 30(3) of the Mizo Marriage, Divorce and Inheritance of Property Act, 2014 submitted by Lalrualkimi Khiangte W/o R.Lalrinenga R/o Ramthar Veng, Aizawl, Mizoram in respect of LSC No.474 of 1976 located at Electric Veng, Aizawl and LSCNo. AZL-588 of 1974 located at Ramthar North, Aizawl Mizoram which was left behind by her deceased father Rokamlova in favour of the Applicant.

Be it admitted and registered it as Heirship Certificate No.1113 of 2022.

The said application is accompanied by a court of Rs.14/- and affidavit and relevant annexures and the following documents:-

- 1. Photocopy of death certificate.*
- 2. Photocopy of birth certificate.*
- 3. Photocopy LSCs.*
- 4. Photocopy voter id of the applicant.*
- 5. No objection certificate.*
- 6. Acknowledgement letter issued by Secretary Electric Veng Local Council.*

After hearing and upon careful perusal of related documents, the Court do not find it necessary to issue notice as practice and I opined that the application is genuine and true and hence, the application is allowed. Accordingly, Heirship Certificate in respect of LSC No.474 of 1976 located at Electric Veng, Aizawl and LSC No. AZL-588 of 1974 located at Ramthar North, Aizawl Mizoram, which is in the name of Rokamlova be issued to the applicant Lalrualkimi Khiangte W/o R. Lalrinenga R/o Ramthar Veng, Aizawl, Mizoram.

With the above order the application is disposed of.

Sd/-R.MALSAWMDAWNGZUALA

Senior Civil Judge-IV

Aizawl Judicial District, Aizawl"

6. A perusal of the same clearly goes to show that the impugned Order had been issued, on the day the application for issuance of the Heirship Certificate was submitted, i.e. on 27.05.2022. The Heirship Certificate was issued on the same day itself, without issuance of any notice and framing of any issue.

7. In the case of *State of Nagaland Vs. Lipak Ao*, reported in (2005) 3 SCC 752, the Supreme Court has held that condonation of delay should be allowed, if denial of the same would result in grave miscarriage of justice.

8. In view of the above reasons, this Court finds that sufficient cause for the delay has been made out. The delay of 463 days in filing the appeal is accordingly condoned.

IA is accordingly disposed of.

JUDGE

Comparing Assistant