

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
CIVIL APPELLATE JURISDICTION
APPELLATE JURISDICTION

PRESENT:

The Hon'ble Justice Harish Tandon
And
The Hon'ble Justice Apurba Sinha Ray

SAT 23 of 2024
IA No. CAN 1 of 2024

Mukti Soren Murmu
Vs.
Smt. Mery Soren and Others

FOR THE APPELLANT : Mr. Bikramaditya Ghosh
Mr. Debajit Kundu
Mr. Supriya Singh
Mr. Ved Rai

FOR THE RESPONDENT : NONE

FOR ORDERS ON : MARCH 5, 2025

THE COURT:

1. Admittedly, Mery Soren and Marlina Soren are the wife and daughter of the deceased Samuel Soren respectively. It is also an admitted fact that the appellant was the wife of Samuel's brother. Samuel was a worker in the

relevant tea garden at the time of his death. The dispute involves a question of law that whether the plaintiff Mary Soren or the appellant Mukti Soren, being the wife of the deceased's brother, is entitled to the job of Samuel in the tea garden and financial benefits of the deceased as per relevant norms of the said tea garden.

2. The allegation of the plaintiff was that she and her daughter had been driven out from the quarters of the tea garden by the appellant and her husband being the brother of the deceased, and with the connivance of the manager of the tea garden the appellant, being a local Panchayat Pradhan was successful in obtaining the job of the deceased Samuel and had tried to withdraw the financial benefits of the deceased.

3. The trial court and the first appellate Court had arrived at the conclusion that it is not the appellant but the plaintiff and her daughter are entitled to the financial benefits of the deceased and further the plaintiff is also entitled to the job of the deceased Samuel.

4. We have taken into consideration the factual aspect and also the relevant law involved in this regard. We find that the first appellate Court has rightly explained the law as to why the plaintiff and the daughter of the

deceased being his Class - I heirs are entitled to death and other financial benefits after his death.

5. Admittedly the defendant no. 1/appellant is not the Class - I legal heir of the deceased Samuel. There is no documentary evidence showing that the plaintiff/respondent no. 1 had waived her right regarding the job of her deceased husband. Further, non acceptance of the relevant request for taking into consideration certain documents of the appellant at the stage of first appeal was correctly considered and decided by the first appellate Court.

6. No regulation of the concerned tea garden has been produced to show that the appellant being the wife of the brother of the deceased was entitled to the job of the deceased Samuel in the tea garden as the appellant was one of the family members of the deceased at the relevant point of time. However, even if such regulation exists, that regulation should conform to the basic principles of law of succession prevalent in the country. The law of Hindu Succession has specifically laid down that the wife of the deceased and his children are to be regarded as Class - I heirs and they have the preferential right to avail the benefit of the deceased over any other Class - II legal heirs of the deceased.

7. We find no substantial question of law is involved in this matter and accordingly, the instant Second Appeal being **SAT 23 of 2024** and the connected application **IA No. CAN 1 of 2024** are not admitted and the same are dismissed. No costs.

8. Urgent certified website copies of this Order, if applied for, be supplied to the parties subject to compliance with all the requisite formalities.

(HARISH TANDON, J.)

(APURBA SINHA RAY, J.)