

*** THE HONOURABLE THE CHIEF JUSTICE APARESH KUMAR SINGH
AND
THE HONOURABLE SRI JUSTICE N.V. SHRAVAN KUMAR**

+ Application No.1 of 2025 in C.S. No.13 of 1958

% Dated 20-02-2026

Between:

Ashrafunnissa Begum (died)
Defendant No.123 died Per LRs
Ibrahim Ali Khan S/o. Late Nawab Safdar Ali Khan,
and Nine others
... Applicants/Petitioners

and

\$ Syed Hassan S/o. Nawab Syed Abdullah
(Died per LRs respondents No.1 to 5 herein)
Lateefunnisa Begum W/o. Nawab Syed Hassan
and One Hundred and Sixty One others.
... Respondents/Defendants

! Counsel for the Petitioner : Mr. Ali Farooq

^ Counsel for the respondents : Vedula Chitralekha

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? Cases referred: :

1. AIR 2006 KERALA 255
2. (2012) 3 Supreme Court Cases 548

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

**THE HONOURABLE THE CHIEF JUSTICE APARESH KUMAR SINGH
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JUDGMENT: *(Per the Hon'ble Sri Justice N.V. Shravan Kumar)*

Mr. Ali Farooq, learned counsel for the Applicants and Mr. Vedula Srinivas, learned Senior Counsel represents Ms.Vedula Chitralekha, learned counsel for the respondent No.9.

2. This Application is filed under Order XXII Rule 4 read with Section 23 of CPC seeking to bring the Applicants as the legal representatives of the deceased Smt. Ashrafunnisa Begum (Defendant No.123) as defendants 163 to 171 in C.S. No.13 of 1958 pending on the file of the High Court. The Applicant No.4 on his behalf and on behalf of the other Applicants/petitioners, who are his real brothers, sisters, nephews and niece with their consent has filed the present Application.

3. Learned counsel for the Applicants/petitioners would submit that originally the defendant No.11 i.e. Nawab Sajid Yar Jung S/o. late Nawab Dawar Ali Khan @ Behram-Ud-Dowla, in C.S. No.13 of 1958, died intestate leaving behind his wife, two sons and five daughters and they were brought on record as defendants No.117 to 124 as their sole legal heirs as per the order in Application No.173 of 1960 order dated 23.09.1960. The mother of the petitioners Smt. Ashraf Unnisa Begum W/o. late Nawab Safdar Ali Khan D/o. late Nawab Sajid Yar Jung, (Defendant No.11) being one of the daughters was also brought on record as defendant No.123 in the above case.

4. It is submitted that the Applicants are the legal heirs of the deceased late Smt. Ashraf Unnisa Begum, who died intestate on 01.04.2015, at Kamineni Hospital, Boggulkunta, Hyderabad, leaving behind the Applicants No.1 to 6 being the sons, and Applicants No.7 being the daughter and the Applicants No.8 to 10 being Grand Sons and Grand Daughter. The sister of the Applicants No.1 to 7 Meherunnisa Begum died intestate on 08.03.2016, leaving behind two sons and one daughter i.e. the Applicants No.8 to 10).

5. It is further submitted that the Applicants/petitioners being the legal heirs and successors of Smt. Ashraf Unnisa Begum (defendant No.123 in C.S. No.13 of 1958) inherited her right, title and interest in the preliminary decree, passed in Applicant No.134, 137, 138 and 139 of 1958 and Applications dated 17.11.1958 and 02.12.1958 vide order

dated 05.03.1959, in which the Maternal Grand Father of the Applicants, Nawab Sajid Yar Jung being defendant No.11 was entitled to 27-3/5th Paisa in a Rupee share in the properties and 36-31/96 Paisa in a Rupee in commutation amount. In the preliminary decree, the mother of the Applicants inherited 1/9th share from out of 28 Paisa of her father's share late Sajid Yar Jund (defendant No.11), from out of total 192 Paisa, as per the said decree passed in the abose case. As such, the Applicants No.1 to 6 being the sons and Applicant No.7 being the daughter and the Applicants No.8 to 10 being grand sons and grand daughter of Smt. Ashrafunnisa Begum are entitled to come on record as defendants in the said C.S. No.13 of 1958 being the legal heirs of defendant No.123 and that except the Applicants, their mother has not left any other person/s as her legal heir.

6. It is further submitted that the Applicants No.1 to 7 along with their deceased sister Meherunnisa filed Application in SR No.5123 of 2015, subsequently numbered as Application No.1 of 2023. On the death of Applicant No.8 Smt. Meherunnisa, the Applicants and the legal heirs of Smt. Meherunnisa i.e. Applicants No.8 to 10 filed another Application in I.A. No.3 of 2023 in I.A. No.1 of 2023, to bring them on record as defendants being the legal heirs and representatives of the deceased Smt. Ashrafunnisa Begum (defendant No.123) in C.S. No.13 of 1958. This Court vide order dated 23.02.2024, disposed of the said Applicants with a leave to obtain and file Succession Certificate, if any before the disposal of C.S. No.13 of

1958. The Applicants as per the orders have filed Succession O.P. by name SOP. No.55 of 2024 on the file of the I Senior Civil Judge, City Civil Court at Hyderabad and the trial Court by an order dated 04.11.2024 allowed the petitioner and issued Succession Certificate in favour of the Applicants holding that the Applicants are the legal heirs and Successors of Smt. Ashrafunnisa Begum (Defendant No.123). It is further submitted that as per the said preliminary decree dated 05.03.1959, the mother of the Applicants Smt. Ashrafunnisa Begum inherited from her father's defendant No.11 allotted share i.e. 28-3/5th share from out of 1 Rupee or 192 Paisa. The Applicants mother inherited the said share in the above said immovable properties along with her four sisters and two brothers i.e. defendants No.117 to 122 in the above C.S. No.13 of 1958. Accordingly, the Applicants being the proper and necessary parties to the suit are to be brought on record as the legal heirs of defendant No.123.

7. On behalf of the respondents No.9 and 10, while denying the averments made in the Application, counter affidavit has been filed, *inter alia*, stating that late Smt. Ashrafunnisa Begum was one of the daughters of late Nawab Sajid Yar Jung, who was the 11th defendant in the C.S. No.13 of 1958. After his demise, the mother of the Applicants i.e. Smt Ashrafunnisa Begum was brought on record in the C.S. No.13 of 1958 as defendant No.123. Ultimately, the C.S. No.13 ended in a compromise and a compromise decree was passed on 05.03.1959 wherein the defendant No.11 i.e. father of late

Smt. Ashrafunnisa Begum was allotted with 28-3/5th share in the schedule of properties. The said 11th defendant in C.S. No.13 of 1958 late Nawab Sajid Yar Jung had four sons and three daughters and hence the mother of the Applicants i.e. Smt. Ashrafunnisa Begum was entitled to 1/9th share of 28-3/5th Paise in the schedule of properties during her lifetime. It is further submitted that the father of the respondents is late Syed Abdullah Khan, who was the brother of late Zainab Begum who was the mother of late Salar Jung-III i.e., wife of late Nawab Salar Jung-II. Thus, late Nawab Salar Jung-III was their first cousin and their father died on 20.02.1954 subsequent to the death of late Nawab Salar Jung-III, on 02.03.1949. As their father was alive at the time of death of late Nawab Salar Jung-III, their father became sole surviving successor of late Nawab Salar Jung-III. When the Nazim Atiyat cum Jagir Administrator directed all the interested parties to obtain succession as the successors of Salar Jung-III through a competent Civil Court, the mother of the Applicants late Smt. Ashrafunnisa Begum along with some others had filed O.S. No.156 of 1980 on the file of VII Senior Civil Judge, City Civil Court Hyderabad, to declare them as successors of Salar Jung-III and also eligible for the commutation amount. The respondents No.9 and 10 were the defendants No.31 and 32 in the said suit. The said suit was decreed on 12.10.2004 whereby some of the plaintiffs therein including the mother of the Applicants i.e. late Smt. Ashrafunnisa Begum were allotted with 2/3rd share in the commutation amount and the defendants including respondents No.9 and 10 were allotted with

1/3rd share lying with the Nazim Atiyat cum Jagir Administrator and some parties to the suit were denied the successorship. Against the judgment and decree dated 12.10.2004 Appeals in A.S. No.222 of 2005 and A.S. No.335 of 2005 were filed by the unsuccessful parties in the Court of the III Additional Chief Judge, City Civil Court, which were dismissed on 01.08.2007 by a common judgement. The Court, while dismissing the appeals, observed as under:

“As per above rules the Paternal and Maternal uncles and aunts of the descendants in class III heirs, the descendants HLS, nearer in degree excluding more remote. So, the Paternal aunt Sultan Bakt Begum and Maternal uncle Syed Abdullah Khan of Salar Jung III are in Group-I; per clause –II of Sec.102 the groups each in turn must be exhausted before any member of the next group can succeed. It is evident that the paternal and maternal uncles and aunts of Salarjung III come in first preference to succeed the deceased Salarjung III and they must be exhausted before the next group can succeed.

(d) In that view of the matter, as rightly held by the court below those parties in OS No.156/80, who are the heirs of class III under Sec.102 will exclude the remoters i.e., the appellants herein in both the appeals. No other provision of law other than Sec.102, has been shown to this court by the appellants to substantiate their contention that they can also claim a share as nearest heirs in class III, to inherit the estate of Salrajung-III. Therefore, I find issue No.1 against the appellants.”

8. It is further contended that the respondents No.9 and 10 are in Group-I and as per clause II of Section 102, are the first group that is to be exhausted before any member of the next group. It is further submitted that the mother of the Applicants Smt. Ashrafunnisa Begum was never a successor of Salar Jung-III but only legal representative of Salar Jung-I and per the above observation made in A.S. No.222 of 2005 and 333 of 2007, she does not fall into the criteria of near descendants at all and is not eligible for the commutation amount. The paternal aunts of Salarjung-III are all predeceased hence are not entitled to claim any succession through Salarjung-III and these are the descendents of the paternal aunts. Though no appeal was filed by the respondents against the above order dated 01.08.2007 in A.S. Nos.222 and 335 of 2005, the same is decided in contravention to Section 102 of the Mohamedan Law and hence the same is bad as such, the Application is liable to be dismissed.

9. The Applicants/Petitioners, filed reply/rejoinder to the counter affidavit and while denying would submit that the averments are factually incorrect and would submit that Nawab Sajid yar Jung who is their maternal grand father had only two sons and five daughters and the respondent No.9 is not a member of the Salar Jung family at all. The issues of inheritance, relationships and fractional shares entitled to each party in commutation amounts have absolutely no relevance to this suit and the present Application is filed only to bring

the heirs and successors of their mother late Ashrafunnissa Begum defendant No.123 on record in the suit in C.S. No.13 of 1958 and having fulfilled all the requirements to satisfy the Court filed the present Application with all the relevant documents and a decree of the Civil Court to prove their succession and there are fair chances of their application being allowed. It is further submitted that the respondent No.9 had no occasion to try to import proceedings of suits and appeals concerning Jagir commutation amounts that were before a Civil Court and the appellate Court and such acts are obviously done to cause confusion and mislead the Court and also waste its valuable time.

10. Heard the learned counsel for the parties and perused the material made available on the record.

11. The Applicants claim to be the legal heirs and successors of Smt. Ashraf Unnissa Begum, who is defendant No.123 in C.S. No.13 of 1958. This Court on 23.02.2024, disposed of the Applications No.3 of 2024 and I.A. No.1 of 2023 in C.S. No.13 of 1958, which were filed by the Applicants therein to bring them as the legal representatives of the deceased Smt. Ashrafunnisa Begum (Defendant No.123) as defendants 159 to 166 in C.S. No.13 of 1958. The relevant portion of the order is extracted for reference:

“3. The applicants claim to be legal heirs of the deceased Smt.Ashrafunnisa Begum. But they have not filed any succession certificate. They have also failed to disclose as to how the subject

property has devolved on them as being legal heirs.

4. In view of the material defects filed along with this application, the application cannot be entertained.

5. However, petitioners are granted leave to file appropriate application and obtain succession certificate.

6. We leave it open to the petitioners to file the succession certificate, if any, before the disposal of C.S. No.13 of 1958 finally.

7. Accordingly, application is disposed of.”

12. Thereafter, the Applicants have filed SOP. No.55 of 2024 under Section 372 of Indian Succession Act for grant of Succession Certificate in their favour in respect of debts of deceased Smt. Ashraf Unnisa Begum, who died on 01.04.2015, on the file of the I Senior Civil Judge, City Civil Court, Hyderabad and obtained Succession Certificate vide order dated 04.11.2024, which is filed along with the present Application, wherein and whereby the schedule of property was mentioned which is extracted for reference:

“All that the share amount of Rs.49,111/- of Smt.Ashraf Unnisa Begum, D/o.Late nawab Sajid Yar Jung, W/o. Late Nawab Safdar Ali Khan, who died on 01.04.2015, lying with the respondent No.1. The Chief Commissioner Land Administration (Jagir Administration) under Khata No.5 towards the Jagir Commutation amount or any other heading relating to the last holder of the

Jagir Nawab Yousuf Ali Khan, Salar Jung III, from the declared 2/3rd commutation amount of Rs.12,15,650-88 paisa to the descendants of Sultan Baqth Begum, D/o. Salar Jung I, Paternal Aunt of Salar Jung III in O.S.156 of 1980 from out of Total amount of Rs.18,23,476-32 paisa.”

13. On a perusal of the said order, the trial Court issued Succession Certificate in favour of the Applicants with a direction to the respondent No.1 therein, The Chief Commissioner, Land Administration (Jagir Administration), O/o. CCLA, Nampally Station Road, Hyderabad, to transfer the petition schedule amount of Rs.49,111/- in favour of the Applicants with accrued interest lying with the respondent No.1 on proper identification and under proper acknowledgment. Further, it is observed that in the Succession Certificate in SOP. No.55 of 2024, the Applicants have not made the respondents in the present Application as party respondents therein, however, made the Chief Commissioner, Land Administration (Jagir Administration), as the respondent No.1 and the respondent No.2 as “All Concerned”. The respondents No.9 and 10 have denied/disputed the legal heirship of the Applicants and when the respondents have specifically denied, the Applicants ought to have sought for declaratory relief for their legal heirship status to the extent of claiming immovable properties and ought to have filed a comprehensive suit separately to declare their legal heirship status. It is further to be noted that the Succession Certificate issued under Indian Succession Act does not establish legal heirship or title to

immovable property and by itself is not sufficient to get impleaded or recognised legal heirship when the heirship itself is disputed. Section 370 to 381 of Indian Succession Act apply to debts, securities, movables, assets and immovable properties are expressly excluded. As such, the Succession Certificate cannot decide heirship conclusively to the extent of immovable properties.

14. The Kerala High Court in the case of **P.K. Vishalakshi Vs. The Bank of India**¹ held that under Section 372, Succession Certificate can be granted only in respect of debts and securities therefore, refusal to grant certificate in respect of the immovable property is not improper. Relevant paras 4 and 7 are extracted for reference:

“4. A reading of Secs. 70 and 72 of the Act, particularly, clause (f) of sub section (1) of Sec. 372 of the Act, will show that a succession certificate can be applied for only in respect of debts and securities. The expression “Debt” has not been defined under the Act. The said expression has not been defined under the General Clauses Act as well. If so, one has to go by the ordinary meaning of the said expression. A debt means any pecuniary liability whether payable in praesenti or in future to another in return for money, services, goods or any other obligation. A debt is also property in the form of a chose in action and is heritable and assignable as understood in law. In the case of securities sub-section 2 of Sec. 70 of the Act enumerates the various securities envisaged by the section. They are as under:

¹ AIR 2006 KERALA 255

“(a) any promissory note, debenture, stock or other security of the Central Government or of a State Government;

(b) any bond, debenture, or annuity charged by Act of Parliament (of the United Kingdom) on the revenues of India;

(c) any stock or debenture of, or share in, a company or other incorporated institution :

(d) any debenture or other security for money issued by, or on behalf of, a local authority;

(e) any other security which the (State Government) may, by notification in the Official Gazette, declare to be a security for the purposes of this part”.

The fact that a succession certificate can be issued only in respect of a debt or security is further reinforced from the wording sub section (3) of Sec. 372 which clarifies that an application for a succession certificate can be made in respect of any debt or debts due to a deceased creditor or in respect of portions thereof. Sec. 376 of the Act makes provision for the grant of extension of succession certificate to any additional debt or security. Sec. 377 of the Act says that the certificate as well as extension of certificate shall be in the forms set forth in Schedule VII of the Act.

7. Thus the Court below was perfectly justified in declining to grant a succession certificate in respect of the immovable property described in the II Schedule of the O.P. We see no reason to interfere with the order passed by the Subordinate Judge.

The result of the forgoing discussion is that this appeal which is bereft of any merit is liable to be dismissed and we do so. However, in the facts

and circumstances of the case, there shall be no order as to costs.

Appeal dismissed.”

15. In the Application filed in SOP. No.55 of 2024, it was submitted that the deceased was the daughter of late Nawab Sajid Yar Jung, who was the defendant No.11 in a partition suit in respect of properties left by Nawab Yousuf Ali Khan (Salar Jung-III) who is the last holder of Jagirs died on 02.03.1949. After the death of Salarjung-III a Committee was formed by the Government of Hyderabad to manage the estate of the Salarjung-III. While so, several parties had filed suit for partition of the Matruka properties vide O.S. Nos.39/1/1955, 40/1/1955 in view of the importance of the cases, clubbing all the suits and numbered the same as C.S. No.13 of 1958. On 05.03.1959 Preliminary Compromise Decree was passed in C.S. No.13 of 1959 hence, Nawab Sajid Yar Jung being defendant No.11 (who is maternal grand father of petitioners) allotted 28-3/5 paise share in the immovable properties and Rs.36-31/96 paise in the commutation amount in Khata No.5 and others. On death of Nawab Sajid Yar Jung, the deceased being one of the daughter brought on record in the said suit as defendant No.123 entitled to 3½ share out of 36-31/96 share of Nawab Sajid Yar Jung. It was further submitted that the mother of the petitioners and other legal heirs approached respondent No.1 to release the commutation amount. However, they refused to release the said amount and directed the parties to approach the Court for declaration. Hence, petitioners’ mother and other legal heirs

of Salarjung-III filed suit for declaration vide O.S. No.156 of 1980 and O.S. No.1451 of 1983. On 12.10.2004, VII SCJ, City Civil Court, Hyderabad passed common judgment and decree in favour of the plaintiffs along with other defendants declared to entitle to receive 2/3rd share out of commutation amount of Rs.12,15,650-88 paise from Rs.18,23,476.32 paise according to their share and personal law to the branch of Sultan Baqth Begum, who is none other than paternal aunt of late Nawab Yusuf Ali Khan, Salarjung-III. It was further submitted that as per preliminary decree in C.S. No.13 of 1958, the VII SCJ, City Civil Court, Hyderabad confirmed the share of the petitioners mother Smt. Ashraf Junnisa Begum, who is entitled to an amount of Rs.49,111/-from out of Rs.12,15,650/-. After the death of late Smt. Ashraf Unnisa Begu, petitioners filed petition before respondent No.1 for release of said amount, but no action has been taken by the respondent No.1 but informed the petitioner to get Succession Certificate for release of the said amount. Thereafter, summons were dispatched to the respondents No.1 and inspite of paper publication, no objections were received against the respondent No.2/All concerned as such, the proceedings against the respondents went on *ex parte*. The trial Court observed that the petitioners filed a petition by invoking Section 372 of Indian Succession Act, seeking the relief of Succession Certificate in favour of the petitioners and consequentially to direct the respondent No.1 to transfer the petition schedule amount which is lying in the name of deceased in favour of the petitioners. It was the contention of the petitioners that during

the life time of deceased, she acquired her commutation amount share lying with respondent No.1 and the deceased did not make a testamentary disposition and they alone are entitled to claim the same. The trial Court further noted that Ex.P37 is the certified copy of common judgment and decree, which showing that the said judgment and decree passed by VII SCJ, City Civil Court, Hyderabad in O.S. No.156 of 1980 and 1451 of 1983 in favour of the plaintiffs to receive 2/3rd commutation amount. Ex.P38 is the certified copy of common judgment in A.S. No.222 of 2005 and As.No.335 of 2005 and Ex.P 39 is the Fatwa. The trial Court has further observed that *prima facie* the petitioners had a case as there is no contra evidence was available on record and allowed the petition and issued Succession Certificate in favour of the petitioners 1 to 10 therein and directed the respondent No.1 to transfer the petition schedule amount.

16. As could be seen from the relief sought for by the Applicants is that their mother inherited from her father defendant No.11 allotted share i.e. 28-3/5th share from out of 1 Rupee or 192 Paisa. The Applicants mother inherited the said share in the above said immovable properties along with her four sisters and two brothers i.e. defendants No.117 to 122 in the C.S. No.13 of 1958. The mother of the Applicants inherited 2-281/360 share in the immovable properties from out of her father's defendant No.11 allotted share i.e. 28-3/5th share from out of 1 Rupee or 192 Paisa.

17. At this juncture, it is to be noted that the Applicants have not mentioned the details of the immovable properties for which they lay a claim as legal heirs of defendant No.123. It is also to be noted that the Applicants have also not mentioned the extent of immovable properties, to which compromise was recorded in the preliminary decree dated 05.03.1959.

18. Succession Certificate does not suffice for claiming immovable properties and cannot establish the legal heirship when disputed. Since the partition proceedings are property specific, the Applicants must specify definite immovable properties in respect of which they claim rights. Without specifying the same, impleadment of legal heir is not maintainable. It is to be noted that the trial Court did not determine the rights of the Applicants for the immovable properties in compromise/preliminary decree dated 05.03.1959 as such the Succession Certificate cannot be the basis to determine their rights to the extent of immovable properties. It is also pertinent to note that the preliminary decree was passed on 05.03.1959 and Smt. Ashraf Unnisa Begum W/o. late Nawab Safdar Ali Khan D/o.Nawab Sajid Yar Jung, died intestate on 01.04.2015. Thereafter, the first application in I.A. No.1 of 2023 and Application No.3 of 2024 in C.S. No. 13 of 1958 and the present Application was filed without explaining reasons for the delay.

19. Further, the Applicants in Application No.3 of 2024 and I.A. No.1 of 2023 in C.S. No.13 of 1958 prayed this Court to bring them as legal heirs as defendants No.159 to 166 however, in the present Application are seeking to bring them as legal heirs of the deceased Ashraf Unnisa Begumas as defendants No.163 to 171 in C.S. No.13 of 1958.

20. Further, upon a perusal of the latest cause title amended from time to time by the Registry, wherefrom it is culled out that as per order dated 12.06.2002 in Application No.635 to 637 of 2002 defendants were brought on record as defendants No.159 to 168 and similarly vide Court order dated 01.09.2004 in Application No.854 of 2004 in C.S. No.13 of 1958, defendants No.169 to 180 were brought on record as legal heirs of defendant No.2. Since the defendants No.159 to 168 and 169 to 180 were already brought on record vide Court orders dated 12.06.2002 and 01.09.2004, now, at this point of time, the Applicants in the present Application cannot be brought on record and arrayed as defendants No.163 to 171 in C.S. No.13 of 1958.

21. Further, since the Applicants are seeking to come on record as proper and necessary party being the legal heirs of defendant No.123 claiming shares in immovable properties as per preliminary decree dated 05.03.1959, the details of such immovable properties are also not mentioned in the Applications and that since their status of legal heirship is also disputed, the Applicants ought to have obtained

declaratory decree in terms of Section 34 of the Specific Relief Act, 1963 as to declaration of their status or rights.

COURT PROCEEDINGS:

22. This Court by a common order dated 24.01.2023 in Application Nos.299 and 1235 of 2012 appointed Commissioners to look into the extent of property involved in the suit and apportionment thereof amongst the parties to the suit in terms of the preliminary decree drawn up on the basis of compromise and file report. Accordingly, the Commissioners have submitted a detailed report on 13.10.2025 and the report was taken on record. Thereafter, by an order dated 16.10.2025 granted permission to the contesting parties to obtain report dated 13.10.2025 from the Registry for filing objections, if any, on or before 27.11.2025. Upon request, the Registry was directed to furnish a copy of the Commissioners report dated 13.10.2025 to the contesting parties and the matter was directed to be listed on 27.11.2025 under the caption 'Final Hearing'.

23. On a perusal of the record, the present Application is filed on 17.12.2024.

COMMISSIONER'S REPORT

24. For better appreciation, it is necessary to extract the relevant portion of the report dated 13.10.2025, which is extracted as under:

“N. FINDINGS

14. Now that the movable and immovable properties belonging to Nawab Salar Jung III appears to have been dealt with under the so called Compromise Preliminary Decree dated 05-03-1959 under the directions and permissions of this Hon'ble Court from the date of the Conditional Compromise Preliminary Decree dated 05-03-1959 till the order in I.A. No.417 of 1961 dated 09-02-1962, AND this Hon'ble Court by order dated 09-02-1962 ordered passing of a final decree as prayed for under certain terms mentioned therein. **The office has to be directed to draw a final decree in terms of the order in I.A. No.417 of 1961 dated 09-02-1962, if it remains unchallenged.**

14.1 The record made available to us indicates that **Application No.2 of 2023 is filed praying the Court to declare the preliminary decree is passed under the garb of fake and false theory that Salar Jung Died issueless and he was unmarried and that the alleged compromise preliminary decree is not executable.**

14.2 The record made available to us indicates that Applications No.1 of 2023, 1 and 2 of 2024 and 1 of 2025 are filed claiming share in the property of Nawab Salar Jung III independently and hence they wanted their impleadment in CS 13 of 1958.

14.3 The applicants in Application No.1 of 2024 claim share in the property left behind by Nawab Salar Jung III, contending that the

Salar Jung Estate has got mixed properties of the grand mother of the applicants therein ("Saheb Begum" D/o Mir Alam Bahadur and grand father Ali Zaman Khan, Munir-ul-Mulk) and also the properties of one Habeebunnisa Begum D/o Mir Alam Bahadur and properties of Mir-i-Duran S/o Mir Alam Bahadur.

14.4 In view of para 11 of conditional compromise preliminary decree and in view of peculiar circumstances under which the said conditional compromise preliminary decree came to be passed and in view of the fact that order in I.A. No.417 of 1961 dated 09-02-1962 is passed directing the registry to draw final decree, the point that arises for the consideration of this Hon'ble Court is, whether the applicants in Applications No.1 and 2 of 2023, 1 and 2 of 2024 and 1 of 2025 can maintain such application in CS No. 13 of 1958.

14.5 In our humble opinion enquiry in Applications No.1 and 2 of 2023, 1 and 2 of 2024 and 1 of 2025 amounts to reopening the main suit in CS No.13 of 1958 which may amount to discarding the Compromise Preliminary Decree dated 05-3-1959. (Virtually undoing all the labor of the then Receiver-cum Commissioner)".

EFFECT OF PRELIMINARY DECREE:

25. In the Commissioner's report dated 13.10.2025, the Commissioners questioned the maintainability of the present Application i.e. Application No.1 of 2025 in C.S. No.13 of 1958 and

further opined that the said Application amount to discarding the Compromise Preliminary Decree dated 05.03.1959. Though this Court granted permission to the contesting parties to file objections, if any, to the said report, the Applicants have not filed any objections to the said report.

26. It is to be noted that compromise has already been recorded and preliminary decree was passed to that extent on 05.03.1959. The Applicants, at this point of time by filing the present Application and if considered would virtually amounts to reopening of the compromised preliminary decree dated 05.03.1959 in O.S. No.13 of 1958 and the Commissioners have rightly observed in the report that, it amounts to discarding the compromise preliminary decree dated 05.03.1959.

27. The Hon'ble Supreme Court in **Bimal Kumar and another Vs. Shakuntala Debi and others**² while observing the difference between preliminary and final decree in partition suit held that the term "compromise" essentially means settlement of differences by mutual consent and in such process, the adversarial claims come to rest. The relevant paras No.24 to 28 are extracted for reference:

"24. In *Renu Devi v. Mahendra Singh* [(2003) 10 SCC 200 : AIR 2003 SC 1608] the effect of a compromise decree and allotment of shares in pursuance of the said decree was dealt with. The two-Judge Bench referred to *Raghubir*

² (2012) 3 Supreme Court Cases 548

Sahu v. Ajodhya Sahu [AIR 1945 Pat 482] and *Muzaffar Husain* [AIR 1933 Oudh 562] and opined that the law had been correctly stated in the said authorities.

25. In the said case, after referring to *Civil Procedure Code* by Mulla, this Court in *Renu Devi case* [(2003) 10 SCC 200 : AIR 2003 SC 1608] , while drawing a distinction between the preliminary and the final decree, has stated that a preliminary decree declares the rights or shares of the parties to the partition. Once the shares have been declared and a further inquiry still remains to be done for actually partitioning the property and placing the parties in separate possession of the divided property, then such inquiry shall be held and pursuant to the result of further inquiry, a final decree shall be passed. A preliminary decree is one which declares the rights and liabilities of the parties leaving the actual result to be worked out in further proceedings. Then, as a result of the further inquiries conducted pursuant to the preliminary decree, the rights of the parties are finally determined and a decree is passed in accordance with such determination, which is the final decree. Thus, fundamentally, the distinction between preliminary and final decree is that: a preliminary decree merely declares the rights and shares of the parties and leaves room for some further inquiry to be held and conducted pursuant to the directions made in the preliminary decree which inquiry having been conducted and the rights of the parties finally determined a decree incorporating such determination needs to be drawn up which is the final decree.

26. Applying the principles laid down in the aforesaid authorities, it is graphically clear that in the case at hand, the parties entered into a compromise and clearly admitted that they were in separate and exclusive possession of the properties and the same had already been allotted to them. It was also admitted that they were in possession of their respective shares and, therefore, no final decree or execution was required to be filed. It is demonstrable that the compromise application does not contain any clause regarding the future course of action. The parties were absolutely conscious and rightly so, that their rights had been fructified and their possession had been exclusively determined. They were well aware that the decree was final in nature as their shares were allotted and nothing remained to be done by metes and bounds. Their rights had attained finality and no further enquiry from any spectrum was required to be carried out. The whole thing had been embodied in the decree passed on the foundation of compromise.

27. It is to be borne in mind that the term “compromise” essentially means settlement of differences by mutual consent. In such process, the adversarial claims come to rest. The cavil between the parties is given a decent burial. A compromise which is arrived at by the parties puts an end to the litigative battle. Sometimes the parties feel that it is an unfortunate bitter struggle and allow good sense to prevail to resolve the dispute. In certain cases, by intervention of well-wishers, the conciliatory process commences and eventually, by consensus and concurrence, rights get concretised. A reciprocal settlement with a

clear mind is regarded as noble. It signifies magnificent and majestic facets of the human mind. The exalted state of affairs brings in quintessence of sublime solemnity and social stability.

28. In the present case, as the factual matrix would reveal, a decree came to be passed on the bedrock of a compromise in entirety from all angles leaving nothing to be done in the future. The curtains were really drawn and the court gave the stamp of approval to the same. Thus, the inescapable conclusion is that the compromise decree dated 3-4-1964 was a final decree.”

28. Since the trial Court granted a Succession Certificate holding that the petitioners therein are entitled to their respective share in accordance to Muslim Personal Law for the petition schedule amount described in Succession O.P. No.55 of 2024 dated 04.11.2024, the Applicants and the respondents may pursue their remedies to that extent before the respondent No.1 only to the extent of the commutation amount.

ON AUTHORISATION:

29. That apart, the Applicant No.4 has filed the present Application and in support of this Application filed affidavit stating that “*I am filing this affidavit on my behalf and also on behalf of the other petitioners/Applicants, who are my real brothers, sisters, nephews and niece with their consent.*” However, he has not filed any authorisation to that extent seeking permission of this Court to act on behalf of

other Applicants. Therefore, this Application is not in accordance with the Rule 32 and 33 of the Civil Rules of Practice and Circular Orders in A.P. / Telangana. For reference, Rules are extracted hereunder:

“32. Party appearing by Agent:-

(1) When a party appears by any agent, other than an advocate, the agent shall, before making of or doing any appearance, application, or act, in or to the court, file in court the power of attorney, or written authority, thereunto authorizing him or a properly authenticated copy thereof together with an affidavit that the said authority shall subsist, or, in the case of an agent carrying on a trade or business on behalf of a party, without a written authority, an affidavit stating the residence of his principal, the trade or business carried on by the agent on his behalf and the connection of the same with the subject-matter of the suit, and that no other agent is expressly authorised to make or do such appearance, application, or act.

(2) The Judge may thereupon record in writing that the agent is permitted to appear and act on behalf of the party; and unless and until the said permission is granted, no appearance, application, or act, of the agent shall be recognized by the Court.

33. Signing or verification by Agent:-

If any proceeding, which under any provision of law or these rules, is required to be signed or verified by a party, is signed or verified by any person on his behalf, a written authority in this behalf signed by the party shall be filed in

court, together with an affidavit verifying the signature of the party, and stating the reason of his inability to sign or verify the proceeding, and stating the means of knowledge or the facts set out in the proceeding of the person signing or verifying the same and that such person is a recognized agent of the party as defined by order III Rule 2 of the Code and is duly authorized and competent so to do.”

30. In view of the foregoing observations and after due consideration of the report of the Commissioner dated 13.10.2025, this Court is of the considered view that the present Application suffers with several material defects and discrepancies and is devoid of merits. Accordingly, the prayer sought for by the Applicants in the present Application seeking to bring them on record being as the legal heirs of defendant No.123 cannot be entertained at this belated stage.

Accordingly, Application No.1 of 2025 in C.S. Nof.13 of 1958 is dismissed.

APARESH KUMAR SINGH, CJ

N.V. SHRAVAN KUMAR, J

Date: 20-02-2026

Note: L.R. copy be marked.
B/o.
LSK