

Mrs. Helen Dawngliani  
Addl.District & Sessions Judge

Mr. R. Sangthuama  
S/o Lalbiakliana (L)  
R/o Thingdawl  
Kolasib District: Mizoram ..... Appellant

Smt. Lalnghinglovi  
W/o Lalbiakliana (L)  
R/o Thingdawl Hmar Veng  
Kolasib District, Mizoram ..... Respondent

Date of Hearing	.....	15.04.2014
Date of Order	.....	15.04.2014

For the Appellant	.....	Mr. C. Lalramzauva, Sr. Advocate Mr. A.R. Malhotra Mr. Zoramchhana, Advocates
For the Respondent	.....	Mr. Lalrinchhunga, Advocate

1. The instant appeal has been filed u/s 17(3) of the Mizoram Civil courts Act, 2005 against the Order dt.11.3.2013 passed by Civil Judge, Kolasib District, Kolasib in Heirship certificate Case no.43/2013 declaring the repodent as the legal heiress of the deceased Lalbiakliana.

2. Case record of the Ld. Trial Court is received.

3. The brief facts of the case leading to the instant appeal is that the respondent filed an application before the Ld. Civil Judge, Kolasib, Aizawl Judicial District for grant of Heirship certificate in respect of the landed properties covered by LSC No.101901/01/144 of 2001 located at Hmar Veng, Kolasib and Periodic Patta No.501901/10/232 of 2006 located at Birvung Ram, Thingdawl. The respondent submitted the said application on the basis of a ‘Will’ dt.6.7.2012 left by her

deceased husband Lalbiakliana. The said application was registered as Heirship case No.43 of 2013.

On the basis of notice issued through newspaper, the appellant who is the son of the deceased Lalbiakliana submitted objection and submitted that he is the rightful heir of late Lalbiakliana because he is the youngest son and that his deceased father had left a Deed in his favour on 15.2.2011.

After receipt of the written objection, the matter was disposed off vide impugned Order dt.11.3.2013 granting heirship certificate in favour of the respondent.

4. Heard the Ld. Counsels.

Mr. Zoramchhana, Ld. Counsel for the Appellant submitted that the Ld. Trial court committed illegality and irregularity by disposing the application without adducing evidence inspite of objection filed by the appellant-respondent. The Ld. Counsel also argued that heirship certificate could not have been issued without probate of the "Will" on the basis of which the respondent was declared legal heiress. The next argument of the Ld. Counsel is that the Ld. Trial Court failed to take into consideration the Deed dt.15.2.2011 issued in his favour by his deceased father and thus pray to set aside and quash the impugned Order dt.11.3.2013.

Mr. Lalrinchhunga, Ld. Counsel for the respondent admitted that no evidence was adduced. The ld. Counsel in his usual fairness submitted that he has no objection if the matter is remanded back to the trial court for fresh trial.

5. Upon hearing the parties and on perusal of the materials on record including the record of the Ld. Trial Court it is noticed that no evidence was adduced. I am of the considered view that the ends of justice would be met if the matter is remanded as consented by the Ld. Counsel for the respondent.

### **ORDER**

6. Accordingly, the matter is remanded back to the Ld. Civil Judge, Koalsib, Aizawl Judicial District to proceed with the matter afresh from the stage of preliminary hearing. Needless to say, it shall be upto the Ld. Trial Judge to consider any application for amendment of pleadings since both the parties were not represented by Counsel.

7. Parties are directed to appear before the Ld. Civil Judge, Kolasib on 20.5.2014.
8. Send back the case record of the Ld. Trial Court.
9. With the above Order, the Appeal stands disposed off.

**Sd/- HELEN DAWNGLIANI**  
Addl. District & Sessions Judge  
Aizawl judicial District : Aizawl

**Memo No:...../AD&SJ(A)/2014 : Dated Aizawl, the 15<sup>th</sup> April, 2014**  
**Copy to: -**

1. R. Sangthuama through Counsel Mr. C. Lalramzauva, Sr. Advocate.
2. Lalnghinglovi through Counsel Mr. Lalrinchhunga, Advocate.
3. Civil Judge, Kolasib District, Kolasib.
4. Registration Section.
5. Guard File.
6. Case Record.
7. Calendar Judgment.

**P E S H K A R**