

IN THE COURT OF ADDITIONAL DISTRICT JUDGE
AIZAWL JUDICIAL DISTRICT, AIZAWL, MIZORAM.

Present : Shri Vanlalenmawia, MJS
Additional District Judge,
Aizawl Judicial District, Aizawl.

R.F.A. No. 15 of 2016
Arising out of Heirship Case No. 511/2015

Shri Vanlalrinliana
S/o Thiauva (L)
R/o Chhing Veng, AizawlAppellant

-versus-

Shri Lalduhawma
S/o Lalramliani
R/o Sairang Venglai, Aizawl, Mizoram Respondent

APPEARANCE

For the Appellant : Shri C. Vanlalruata, Advocate.
For the Respondent : Shri T.J. Lalnuntluanga, Advocate.

Hearing : 13.1.2017
Order delivered on : 23.1.2017

ORDER

1. The appeal has been filed under section 17 of Mizoram Civil Court Act, 2005 read with Section 96 and Order 41 of Civil Procedure Code against the impugned Judgment & Order dated 29.1.2015 passed by the learned Sr. Civil Judge, Aizawl in Heirship Certificate Case No. 511 of 2014.

2. The respondent was declared as legal heiress of the deceased Vanhnuaithanga in respect of all properties by the Id. Sr. Civil Judge, Aizawl District, Aizawl.

3. It is shown in the memorandum of appeal that Shri Vanhnuaithanga (L) and his wife Smt. Lalkungi (L) got married way back in 1935 and had no issues out of the said wedlock. Shri Vanhnuaithanga was predeceased by his wife in 2010 and Shri Vanhnuaithanga also passed away on 23.1.2014.

4. The appellant is the eldest nephew of Shri Vanhnuaithanga (L). The instant respondent is the distant relative of Smt. Lalkungi (L) who was the late wife of the deceased Shri Vanhnuaithanga.

5. The appellant filed Title Suit No. 6 of 2015 before the learned Court of Senior Civil Judge Shri F. Rohlupaia to inherit the properties left behind by Shri Vanhnuaithanga (L) on the basis of inheritance over the land covered under LSC No, 103001/01/478 of 2000 belonging to Shri Vanhnuaithanga (L) of Sairang in his favour. According to the appellant, during the pendency of the said Title Suit, the impugned Heirship Certificate No. 511/2014 vide Memo No. 159/HC/Sr.CJ(A)/2015 dt.10.2.2015 had been illegally issued in favour of the instant respondent without any notice or publication in the leading daily newspapers. The appellant came to know that the Heirship Certificate was already issued to the respondent without his knowledge on 15.5.2016 when a copy of the same was enclosed in the written statement submitted by her in the connected suit. Thereafter, the appellant had prayed for withdrawal of the said Title Suit with liberty to file a fresh suit on the same cause of action and the same was allowed vide order dated 11.5.2016.

6. The respondent also submitted written objection against the appeal. In the written objection, in short, the respondent claimed entitlement of land covered by House Pass No. 85 of 1959 left behind by Shri Vanhnuaithanga (L). According to the respondent, the appellant has no title over the land covered by the House Pass No. 85 of 1959. The respondent also submitted that the learned Lower Court had not erred in law while issuing Heirship Certificate No. 511 of 2015 in favor of the respondent.

7. The records of Heirship Certificate No. 511 of 2015 was called during the course of hearing. However, it cannot be produced before me.

8. On perusing the appeal petition with documents and the written objection with documents filed before this Court, I find that principles of natural justice have not been applied by the learned Lower Court while issuing Heirship Certificate No. 511 of 2015 dated 10.2.2015 in favour of the respondent inasmuch as public notice was not issued for at least a month or 45 days in the leading newspapers in order to ascertain as to whether the appellant or any interested person would like to contest the application.

9. Hence, I am of the view that the Order declaring the respondent as legal heir of the deceased Vanhnuaithanga in respect of all properties in HC No. 511 of 2015 cannot be sustain in law. Accordingly, the Order dated 29.1.2015 in Certificate Application (HC) No. 511 of 2015 is set aside and quashed.

10. The appellant is advised to file Title Suit before Shri F. Rohlupaia, the learned Senior Civil Judge, Aizawl.

11. With the Orders stated above, the appeal petition is disposed off.

12. No cost.

Sd/- VANLALENMAWIA
Addl. District Judge,
Aizawl Judicial District,
Aizawl, Mizoram.

Memo No. _____/ADJ(A)/2017 : Dated Aizawl, the 23rd January, 2017

Copy to: -

1. Shri Vanlalrinliana through Counsel Shri C. Lalramzauva, Sr. Advocate.
2. Shri Lalduhawma through Counsel Shri T.J. Lalnuntluanga, Advocate.
3. District Judge, Aizawl Judicial District, Aizawl.
4. Shri F. Rohluipua, Sr. Civil Judge, Aizawl District, Aizawl.
5. Registration Section.
6. Calendar Judgment.
7. Guard File.
8. Case Record.

P E S H K A R