

**IN THE COURT OF ADDL. DISTRICT JUDGE
AIZAWL JUDICIAL DISTRICT, AIZAWL**

RFA No. 3 of 2017
Arising out of Heirship Certificate No. 151 of 2016

Shri Lalnunmawia S/o Ralliana (L)
R/o Bilkhawthlir, Mizoram : Appellant

Versus

Shri R. Laltanpuia S/o Tlanglawma
R/o Tuikual 'S', Aizawl, Mizoram : Respondent

Date of Order : 17.3.2017

BEFORE

Sh. Vanlalenmawia, AD & SJ (A) – II

APPEARANCE

For the Appellant : Shri Johny L. Tochhawng, Advocate.

For the Respondent : Shri Francis Vanlalzuala, Advocate.

ORDER

The impugned Order dated 8.12.2016 in Heirship Certificate Case No. 151 of 2016 passed by the learned Senior Civil Judge, Kolasib District is set aside and quashed for the reasons stated below.

2. In Heirship Certificate Application No. 151 of 2016 filed under section 30 of the Mizo Marriage, Divorce and Inheritance Act, 2014, the respondent inherited the immovable property of the deceased Ralliana i.e. LSC No. 501601/01/487 of 2004 (Located at Kawn Veng, Bilkhawthlir) and P. Patta No. 501601/01/342 of 2006 (Located at Phari Zau, Bilkhawthlir).

3. I heard the learned Counsels for the rival parties.

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4. I have also perused the records of the learned Lower Court.
5. In the instant case, the appellant is the son of the late wife of the deceased Ralliana and the respondent is the son of the deceased Ralliana's brother. In the records, there is a will made in favour of the appellant.
6. It was stated by the learned Counsel for the respondent that there was a settlement under Lok Adalat in which the appellant's mother would give the landed properties to the respondent in case she dies or re-marries, which is seriously objected by the learned Counsel for the appellant. According to the learned Counsel Shri Francis Vanlalzuala, the settlement cannot be open in any Court.
7. On hearing the learned Counsels and on perusing the records, I do not find any settlement of the Lok Adalat.
8. The learned Lower Court issued Public Notice in daily newspapers, i.e. Zoram Kanaan on 19.10.2016 and Kolasib Times on 20.10.2016 about the claims of the legal heir of Ralliana. But, the appellant also appeared in the learned Lower Court. However, there is no framing of issues or evidence taken to support the petition of the respondent.
9. In the result, this Court cannot find the respondent entitled to be legal heir of the deceased Ralliana inasmuch as the present case should be decided on merits by framing issues and taking evidence. It is also pertinent to mention here that the learned Senior Civil Judge, Kolasib is directed to give chance to the appellant to submit written objection/written statement, to frame issues and to take evidence on the basis of the issues.
10. The case record of the learned Lower Court is returned.

Sd/- VANLALENMAWIA
Addl. District & Sessions Judge,
Aizawl Judicial District, Aizawl

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Memo No. _____/ADJ(A)/2017 : Dated Aizawl, the 17th March, 2017

Copy to :

1. Shri Lalnunmawia through Counsel Shri Johnny L. Tochhawng, Advocate.
2. Shri R. Laltanpuia through Counsel Shri Francis Vanlalzuala, Advocate.
3. District Judge, Aizawl Judicial District, Aizawl.
4. Senior Civil Judge, Kolasib District, Kolasib.
5. Registration Section.
6. Calendar Judgment.
7. Guard File.
8. Case Record.

P E S H K A R