

GAHC030003052023



**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : RFA/20/2023**

Sh. T.C. Thanzuala  
S/o Liankaia (L)  
R/o Saron Veng, Aizawl, Mizoram

VERSUS

Sh. T. Lalthakima  
S/o Sangkhuma (L)  
R/o Saron Veng, Aizawl, Mizoram

**Advocate for the Petitioner** : Ms. Jacinta Zothanmawii

**Advocate for the Respondent** : Mr T Lalzekima

Linked Case : I.A.(Civil)/67/2023

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Advocate for the Respondent : Mr T Lalzekima

**BEFORE**

**HON'BLE MRS. JUSTICE MARLI VANKUNG**

Date of hearing & judgment : 31.01.2025.

**JUDGEMENT AND ORDER (Oral)**

Heard Ms. Jacinta Zothanmawii, learned counsel for the appellant along with Mr. T. Lalzekima, learned counsel for the respondent.

2. The instant Regular First Appeal is filed against the Order dated 22.02.2022 in Heirship Certificate Case No. 281/2022, wherein the learned Court of Civil Judge (Senior Division) had issued the Heirship Certificate No. 281/2022 to the respondent.

3. Ms. Jacinta Zothanmawii, learned counsel for the appellant submits that the Order dated 22.02.2022 passed by the learned Civil Judge (Senior Division), Aizawl Judicial District and the Heirship Certificate No. 281/2022 are liable to be set aside, since the application for issuance of the Heirship Certificate was filed by the respondent on 22.02.2022 and the learned Trial Court had allowed the application vide its Order dated 22.02.2022 and issued the Heirship Certificate No. 281/2022, without issuing any notice and without giving any chance to the appellant to file their written statement and without being given any opportunity of being heard. The learned counsel submitted that the deceased Thanthuami had executed a Will, wherein the appellant was made a legatee for the property left behind by the deceased i.e., LSC No. CAD-365 of 2016 located at Saron Veng, Aizawl and that the impugned Heirship Certificate issued to the respondent is also in respect of the said landed property and is therefore liable to be quashed and set aside.

4. Mr. T. Lalzekima, learned counsel for the respondent, on the other hand submitted that the said alleged Will executed by the deceased Thanthuami, who was his mother is in respect of an LSC bearing No. AZL 643 of 1976 located at Saron Veng, where else the Heirship Certificate issued to him is in respect of LSC No. CAD-365 of 2016 located at Saron Veng. The learned counsel also submitted that the appellant has not approached this Court with clean hands, since the appeal memo has distorted some facts and that the appellant has already withdrawn the Probate Application filed by them before the Court of Civil Judge (Senior Division), Aizawl Judicial District. He also submitted that the appellant already knew about the existence of the Heirship Certificate which was mentioned in their written statement in the withdrawn probate case.

5. I have considered the submissions made by the learned counsels for both the parties and have also perused the documents on record.

6. From the documents on record, it is seen that the deceased Thanthuami died on 20.01.2022 and is said to have executed a Will, which is dated 16.05.2016. It is also seen that the respondent had made an application for issuance of Heirship Certificate, which is dated 22.02.2022 and

the learned Trial Court had disposed of the application vide an Order dated 22.02.2022, without issuance of notice or without giving the appellant the opportunity to file their written statement/objection and had accordingly allowed Heirship Certificate No. 281/2022 on the same day itself.

7. In view of the above, this Court finds it fit to dispose of the RFA No. 20/2023, by remanding the matter back to the learned Trial Court and by giving the opportunity to the appellant to file their written statement/objection to the application made by the respondent for issuance of Heirship Certificate. Consequently, Heirship Certificate No. 281/2022 issued by the learned Trial Court stands quashed and set aside.

8. Both the parties are to take necessary steps by approaching the learned Trial Court within 3 (three) weeks from the date of receiving a certified copy of this order.

RFA No. 20 of 2023 is allowed and disposed of with the above direction.

No costs.

**JUDGE**

**Comparing Assistant**