



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MS. JUSTICE JYOTI M

MISCELLANEOUS FIRST APPEAL NO. 3127 OF 2024 (ISA)

BETWEEN:

1. MRS. ESTRIDA LUCY JANET VAZ
AGED ABOUT 56 YEARS,
W/O LATE HEROLD VAZ,
2. MR. ELGAR JULIUS VAZ
AGED ABOUT 33 YEARS,
SON OF LATE HEROLD VAZ

REPRESENTED BY SPA HOLDER
MRS. ESTRIDA LUCY JANET VAZ.

3. MR. AARON DARIUS VAZ
AGED ABOUT 29 YEARS,
SON OF LATE HEROLD VAZ

ALL ARE RESIDING AT NO.47, GROUND FLOOR,
III MAIN ROAD, GANGANAGAR EXTENSION,
BENGALURU - 560032.

...APPELLANTS

(BY SRI. PRUTHVEEN KATTIMANI., ADVOCATE FOR)
SRI. GIRIDHAR H., ADVOCATE)

AND:

NIL

...RESPONDENT





THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 384 OF INDIAN SUCCESSION ACT, 1925.

THIS MISCELLANEOUS FIRST APPEAL IS LISTED FOR ORDERS, THIS DAY, THE JUDGMENT IS DELIVERED AS UNDER:

ORAL JUDGMENT

Sri.Pruthveen Kattimani., counsel on behalf of Si.Giridhar.H., for the appellants has appeared in person.

2. The captioned appeal is filed to set aside the order dated 08.11.2019, passed by the Court of the XX Additional City Civil and Sessions Judge (CCH-32), Bangalore City, in P & S.C.No.532/2018.

3. The deceased husband of the first appellant and the father of appellants 2 and 3 was a Christian by religion, and the appellants herein are also Christians by religion. The late Mr.Herold Vaz died intestate without leaving any will or testament.

The deceased Mr.Herold Vaz had invested certain money in Reliance Group of Companies shares without nominating a nominee for transmission of shares after his lifetime;



consequently, the appellants, being the lineal descendants, became entitled to get transfer of the aforesaid shares held by late Mr.Herold Vaz in the Reliance Group of Companies and the appellants sought for transmission of shares described in the schedule to the petition in their favor along with all the necessary papers, including all the necessary forms, affidavits, copies of the shares certificate and the death certificate of the aforesaid late Mr.Herold Vaz. However, the appellants were informed that the said shares cannot be transferred in their name without furnishing a succession certificate issued by a Competent Court of Law. Appellants to get the shares of the late Mr.Herold Vaz in their favor submitted a petition under Section 372 of the Indian Succession Act, 1925, on the file of XX Additional City Civil and Sessions Judge, Bengaluru. The Trial Court dismissed the petition. Under these circumstances, the appellants have filed the present appeal on several grounds as set out in the memorandum of appeal.

4. Counsel for the appellants presented several contentions. Heard the arguments and perused the papers with utmost care.



5. Whether the impugned order passed by the Trial Court is sustainable in law, having erroneously refused to grant the succession certificate despite *prima facie* evidence.

6. While the facts have been sufficiently set out in the preceding paragraphs, the core issue in this appeal relates solely to the impugned denial of the grant of a succession certificate to the appellants. The late Mr. Herold Vaz died intestate, and he is survived by his wife and children as his lineal descendants. The Trial Court refused the certificate on the mistaken premise that the mother's status as a legal heir precluded the applicant's claim. To be precise, the Trial Court improperly rejected the application, citing the mother's legal heir status as the exclusive reason to deny the certificate. This is unsustainable in law. The reason is apparent and simple. The Trial Court erred in law by failing to apply Sections 32 and 33 of the Indian Succession Act, 1925, which provide that the mother does not inherit if the deceased is survived by a widow and lineal descendants (children). The Trial Court erred in law by failing to recognize that under the Indian Succession Act, 1925, the mother of the intestate is excluded from inheritance when a



wife and children survive the deceased. As the intestate left behind lineal descendants (wife and children), the entire estate devolves upon them, and the mother holds no legal right to a share. According to Section 33 of the Act, if the intestate dies leaving a widow and lineal descendants, $1/3^{\text{rd}}$ of the property goes to the widow and $2/3^{\text{rd}}$ to the lineal descendants.

7. I may venture to say that the Trial Court misconstrued and misapplied Sections 32 and 33 of the Act in its ruling. If a son dies intestate, leaving behind a wife and children, the mother does not have a legal right to a share. The judgment is contrary to Sections 32 and 33 of the Indian Succession Act, 1925. The Court overlooked that the mother only succeeds in the absence of lineal descendants (direct descendants). Since the son died intestate, leaving a wife and children, the mother is not a legal heir. Upon the intestate succession of Mr. Herold Vaz, the estate is to be distributed among the widow and surviving children as direct lineal descendants. In the present case, the appellants constitute the direct lineal descendants of the late Mr. Herold Vaz; hence, they are entitled to succeed to his estate or assets by operation of



law. To be more precise, the appellants, being the direct lineal descendants of Mr. Herold Vaz, hold the legal right to succeed to his estate.

8. For the foregoing reasons, the order dated 08.11.2019, passed by the Court of the XX Additional City Civil and Sessions Judge (CCH-32), Bangalore City, in P & S.C.No.532/2018 is liable to be set aside, and accordingly it is set aside. The Trial Court is directed to grant the Succession Certificate in favor of the appellants in accordance with the law forthwith within a week's time from the receipt of certified copy of this order.

9. Resultantly, the appeal is ***allowed***.

As the records are secured by the Registry concerned, in view of disposal of the appeal, the Registry concerned is hereby directed to return the TCRs to the concerned Court forthwith.

**SD/-
(JYOTI M)
JUDGE**

MRP
List No.: 1 Sl No.: 74