



Mary Roy

FOLLOW UP

## Not By Law Alone

*Mary Roy, whose account of her challenge to the Travancore Christian Succession Act was carried in earlier issues, reports on the difficulties women face in taking advantage of the new law.*

It was the night of February 24, 1986. At 10 p.m., I was woken up as one newspaper reporter after another rang up to confirm the unbelievable news.

The supreme court had delivered a judgement in my favour! The Travancore Christian Succession Act had been struck down!

Twenty five years ago, I had been offered Rs 5,000 as my share in my father's estate which was worth lakhs. I nursed this insult in silence. I had neither the money nor the time to invest in legal proceedings. No Christian lawyer would accept my brief.

In 1983, I challenged this Act in the supreme court, as violative of my right to equality under articles 14 and 15 of the Constitution.

The Act decreed that a daughter "shall receive a quarter of the share of a son or Rs 5,000, whichever is less." Other clauses disinherited a woman, whether widow or mother, from the estate of a man who had died without making a will.

The Act was struck down with retrospective effect from 1952, in which year the state of Travancore-Cochin became an integral part of the Union of India. It was held by Chief Justice Bhagwati and Justice Pathak that as from that time no met passed by the Maharaja of Travancore

or Cochin could be deemed to be an Act of the Union of India unless specifically passed by the Indian parliament.

Congratulations poured in from all over the country. What touched me were the letters and the telephone calls from members of my own community. I was proud to be a Syrian Christian. Proud to be a member of this highly literate community which could face reality with maturity.

Today, six months later, victory savours of bitterness.

The government introduced a review petition in the supreme court. It was rejected. Another victory? This time I react with a subdued enthusiasm. The government has many other cards to play. Some sources have it that a full bench review will be sought. Others, that the next forum will be the parliament. But the main problem lies in the situation of Syrian Christian women themselves.

If women have not the money and the staying power to fight a long drawn out legal battle through several courts, facing animosity at every step, where will they find sustenance?

Today, six months after the judgement, only two women, Aleykutty and Mariakutty, copetitioners in the case I filed, have filed partition suits.

K. C. Aleykutty acts on behalf of her 85 year old mother and five sisters, who were forced to leave their father's house after he died leaving no will. Their only brother is the sole heir to their property. He coolly overlooked the patronising clause which gave his mother a right to half of the income from the property.

Aleykutty is a retired nurse. She gets no pension. Two of her sisters are in

convents as nuns— this being an easy solution in families where dowries cannot be raised. Another sister, though stricken with polio, is a teacher. Her income feeds the rest of the family. They all live in the home of a married sister. She was given this house, from money raised by the womenfolk, as dowry.

Aleykutty is 62 years old, and an asthmatic. The family has very little money to spare. Aleykutty had to undertake a painful search for a lawyer who would take up the actual partition suit. She was joined by another 68 year old woman called Mariakutty. And then by a young polio stricken doctor, Dr Lily Muricken, heir to one of the richest estates in Kerala. Together, they saw several lawyers, including the secretary of the Public Interest Litigation society and an advocate who was till lately a member of the Minorities Commission. No action was initiated.

The next landmark in their journey was a meeting with exjustice of the supreme court Krishna Iyer, who referred them to the People's Council For Social Justice, Cochin. At the office of the Council they were asked insulting questions such as:

"You are dressed so well—and yet you seek free legal aid?"; "You are so old! Isn't it time you stopped troubling your family?"; "Why don't you work? You are qualified women."

The Council made a mediation bid which resulted in Mariakutty, being offered Rs 1.5 lakhs by her brothers if she agreed not to pursue the case. A refreshing reevaluation from the time she was worth only Rs 5,000. But Mariakutty refused this compromise and told the Council: "All Kerala is waiting to see what I will do. I will

accept nothing short of an equal share with my four brothers in my father's estate. An equal share should be between eight and 10 lakhs. Equality is not negotiable."

Both Mariakutty and Aleykutty have now found a lawyer who has offered them free service. The newspaper headlines announce: "At last two women have their cases for division of property admitted in the Cochin district court." But in one case a will has suddenly appeared. It will probably take two years to prove it false.

These two women are exceptions. There are many others who suffer in silence. Women who write to me, but will not see a lawyer. Women who refuse to divulge their identity. One letter to me offers this advice: "It is better to declare you are no longer a Christian than to go to court."

The church, the legislature and the press declare that calamities will follow the judgment that will hurl Kerala into hellish turmoil, unless action is urgently taken. They say that a spate of litigation will ensue that could swamp the law courts. The affluent Christian community could face economic distress. However, they feel that all transactions involving Syrian Christians, such as sale of property and bank security, will be held to be invalid. The fact that this will happen only in cases where an intestate death has occurred in the family, is not emphasised.

The government, which has acquired much land under the Land Ceilings Act, has distributed this land to the poor. These transactions are now illegal because of the supreme court judgment in very.

The fact that at the time of seizing excess land, a daughter was regarded as a nonperson does not seem to bother anybody. On the other hand, crocodile tears are shed about 'the poor' who must be evicted from their land, which wicked daughters will now claim.

It is feared that an estimated 30,000 nuns, who were not given dowry, but were instead wedded to the church, will now demand their share in their fathers' property. Again, there is no emphasis on the fact that only a few of these nuns' fathers died intestate. But the sad fact is that most women will quietly sign away

their rights. They have been well trained. Those who do have doubts will need just a little twist of the arm to be coerced into signing on the dotted line.

The government, instead of removing 'the poor' from the land given to them under various schemes, could instead reimburse daughters, who were unfairly denied a share in their fathers' property, with money grants. This will leave a handful of genuine cases, cases which any charitable government should give all assistance to resolve.

If a timebound tribunal were constituted by an act of the legislature to deal with problems arising from the retrospective nature of the judgement, there would be no need to run from pillar

to post or, rather, from court to parliament. After all, the failure of the government to act in this matter is the main cause of the predicament in which it now finds itself. Why should women pay for wilful governmental inertia?

The government could announce that such a tribunal would, for a period of two months, deal with buyers who have purchased property from Syrian Christians before the supreme court judgement and who may be able to trace defects in the title of the seller after the law was laid down by the supreme court in February 1986. In such cases, women who are willing to do so could sign release deeds.

Such property, mortgaged to the bank as collateral security, may suffer from some defect in the title due to the supreme court judgment. Such persons may check whether the property is intestate or testamentary and whether women members of the family are involved, in which case women may be invited to sign release deeds, if they are willing to do so.

The government of Kerala is resolutely dragging its feet with regard to the implementation of the supreme court judgement. I have been advised to file a writ of mandamus in the high court.

A short note about my personal problem. If women are overawed by the

He has trespassed into the campus of the school of which I am headmistress, with a retinue of rowdies, for several days in succession. Pupils had to be sent home repeatedly, as routine classes could not be held. Eventually, the harassed teachers requested that they should be relieved of teaching duties temporarily. Classes were suspended for a week.

A plea for police assistance to prevent trespass only brought more problems. I

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*When women do not have the money to fight a long drawn out battle in the courts, how will they derive benefit from the law?*

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was requested to admit, police sponsored candidates—or else! We opted for the 'or else.' The harassment continued.

Strangely enough, it ended when a little man walked into my office, picked up my telephone, rang my brother and said: "Isaac, don't you dare to step into this school campus again. Not you, nor any of your minions." And, from that day, there has been peace. I have never quite worked out how my visitor made his point!

A barrage of frivolous cases filed by my brother and countercases are being dealt with most effectively by my lawyers. One case he has filed is for contempt of court which states that "if found guilty, she must be put in prison, and all her properties must be seized by the court." A fine example of wishful thinking by one who dreads the loss of property he has enjoyed these many years.

Isaac has also sent letters to the parents of pupils studying in this school and even to the secretary, Council for the Indian School Certificate Examinations, New Delhi obliquely threatening that they too may inadvertently be involved in the 'contempt' proceedings.

The reaction of my family? Utter and total embarrassment. They never talk about the judgment. They play 'pretend'—pretend it never was!