

A Christian Woman Demands Equal Succession Rights

MARY ROY, a Syrian Christian of Kerala, has recently filed a writ petition, No. 8260 of 1983, in the supreme court challenging the Travancore Christian Succession Act, 1916, on the ground that it discriminates against females on the ground of their sex alone and is therefore unconstitutional. In this petition, she seeks to enforce her fundamental rights under article 32 of the constitution, by obtaining an order declaring sections 24, 28 and 29 of the Travancore Christian Succession Act violative of articles 14 and 15 of the Constitution, which guarantee non-discrimination to all citizens.

Under the Travancore Christian Succession Act, if a man dies without making a will, all his property goes to his sons, to the exclusion of his daughters. His widow or mother has a life interest in the property which terminates when she dies or remarries. She does not inherit the property from him so she cannot sell it or will it away. His daughters are entitled only to a fixed amount called *stridhanam*. This *stridhanam* means and includes any money or ornaments, any property, moveable or immovable, given or promised to be given to a female or on her behalf to her husband or to his parent or guardian by her father or mother. The maximum *stridhanam* is laid down in the Act as Rs 5,000 only.

Christians living in different parts of India are governed by different laws. Most Christians in India are governed by the Indian Succession Act, 1925. This Act gives relatively more equal succession rights to males and females. However this Act applies in Kerala only to the area which was the former state of Cochin, to Malabar district, to Kasongode, Thangeesey and Anjeno taluks, and to the district of Tinnanally which was formerly part of Travancore state.

The Travancore Succession Act, 1916, governs intestate succession among the majority of Christians living in that part of Kerala which was formerly the Travancore state. But this Act does not apply to Roman Catholic Christians of the Latin Rite or to Christians living in Karunagapallu, Quilon, Chirayinkil, Trivandrum and Neyyattinkara. Similarly, the Cochin Christian Succession Act, 1916, applies to Christians living in the part of Kerala which was formerly the state of Cochin but not to the Tamil Christians of Chillian taluk who follow the Hindu law.

Mary Roy is a Syrian Christian and is therefore governed by the Travancore Christian Succession Act. Her father, P.V. Isaac, died in November 1959 without making a will. He was survived by his wife and four children—two sons and two daughters. He left a house and agricultural land.

Mary Roy points out in her petition that if she had been born in any other part of Kerala where the Indian Succession Act or the Cochin Christian Succession Act applies, she would have been entitled to an equal share of the property with her brothers. This means that in Kerala, some Christians are discriminated against solely on the ground of their place of birth. Further, she is also discriminated against on the ground of sex because had she been a man she would have been entitled to an equal share.

In her petition, Mary Roy states : “...it has been the endeavour of the state to secure a uniform civil code for the citizens of this country. As a first step, the Hindu law was codified vesting absolute ownership in the female and by granting equal rights to the male and female heirs in the same group, having regard to the preamble to the Constitution assuring to all its citizens equality, unity and integrity of the nation, and other provisions of the

Constitution, if it is not possible to have a uniform civil code for all the citizens, there must at least be a uniform code in respect of inter-state succession amongst all the Christians.”

She seeks to strike down the Travancore Christian Succession Act on three grounds—that it is discriminatory on ground of sex, discriminatory to Christians, and discriminatory on ground of the place where a particular female is born. She asks that the court pass orders declaring that sections 24, 28 and 29 are violative of articles 14 and 15 of the Constitution and are therefore void, and further to declare that she is entitled to an equal share with her brothers in her father’s property.

The Travancore Christian Succession Act has once before been similarly challenged in the Travancore-Cochin high court in the case of *Devasi versus Aley*, 1956, but the court upheld the validity of the Act.

Mary Roy, now aged about 50 years, married a Bengali under the Special Marriage Act in 1956, and no dowry was given at her marriage. She has a son and a daughter. She is now separated from her husband and runs her own school, Corpus Christi High School in Kottayam.

This case is of great significance as it is a step towards striking down the laws which discriminate between men and women in the matter of property and inheritance rights. One case challenging the exclusion of tribal women in Bihar from property and inheritance rights is already pending in the supreme court (see **Manushi** No. 13 for details). More such cases need to be filed challenging the various discriminatory laws that prevail amongst different communities and in different regions of the country. For instance, Muslim women are severely discriminated against in matters of succession. Hindu women are also excluded from the right to inherit ancestral property (see **Manushi** No. 18). Only then will such cases go beyond being a cry in the wilderness and contribute to the building of a campaign. □