



## WHO'S AFRAID OF THE SUPREME COURT ?

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**In February 1985 the Supreme Court passed a landmark judgment over-ruling the discriminatory Travancore Christian Succession Act, and declaring that all Syrian Christians would be governed by the Indian Succession Act. But have women actually obtained equal inheritance rights ?**

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IN 1983, Mary Roy, a Syrian Christian of Kerala, filed a petition in the supreme court challenging the Travancore Christian Succession Act (TCSA) as unconstitutional (see *Manushi* No. 25). Under the TCSA, Christian women in many parts of Kerala were denied equal inheritance rights with men. A daughter inherited a quarter the share of a son of Rs 5,000, whichever was less. A widow had only a life estate in a share equal to the share of a son.. This terminated if she remarried.

Mary Roy had to face a great deal of

opposition and hostility. After the supreme court ruling in her favour, she found, to her dismay, that very few women were in a position to challenge their male relatives and claim their new legal rights. Those who dared do so had to fight hard and lonely battle. All kinds of legal and illegal tactics were used to pressure them into dropping their claims (see *Manushi* No. 34).

Mary herself was ostracised by many relatives and severely harassed by her brother. She writes: "Even, my mother and my sister have joined forces, with my

brother. My son has been wooed by them with a rented house, a telephone, a car and a well paid job in their factory. They have now even provided him with a wife- taking the trouble to celebrate the marriage with as much pomp as possible. This has all been done in an effort to spite me. My son? He has much to gain! He feels rather cheated in not being treated like other males in the community. Therefore, he was quite happy to accept the largesse offered by my brother. I have celebrated one year now since I spoke to any of them. This is the price I have had to pay for defying social customs. The family is backed by the bishops and the community. I would have been hounded out of this town except for the fact that I run an excellent school.”

Mary Roy is not the only mother whose son turned against her when she claimed her property right. Aley Chacko’s case is an example of how sons often behave when their old parents or sisters seem to be obstacles in the way of their acquiring sole control over family assets. Aley Chacko is an 84 year old woman. She and her five daughters were copetioners with Mary Roy.

Aley Chacko has only one son, Papechan, her youngest child, in an open letter to him, she relates how much care she and her daughters had lavished on him. “...I remembered how many things about you, Papechan, my beloved son. I remembered how you were a sickly child. I took Thangam, the sister directly older to you, to my mother’s house and left her there so that I could give you more attention. I remember how I took you with me on many a pilgrimage. ....And the virgin Mary heard my prayers and healed my son....”

“All your five sisters worked hard to see that you wanted for nothing. Aleykutty, the eldest, became a nurse. She sent home all her money. With her money

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*“You, my son, my only son, seized your father’s entire property and turned us out of the ancestral home.”*

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we saw that you were educated. How proud we all were the day we knew you had passed your MA . There was no dowry to get Aleykutty married.

In any case, we could not afford to loose her because it was with her earnings that our family was fed and clothed. She did not grumble. Meanwhile, Clary and Theresa grew up. There was no money to get them married. No money to educate them. We took them both to the convent. ...Today, they are both nuns. ...

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### *Her son refused to let her cultivate even the land in her name givenby her parents as dowry*

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“A few years later Mariamma grew up. She was sent to be trained as a nurse. We all decided that at least one girl out of five must be married. So we transferred 50 cents of land to her name. We built a small house on this land for her. We offered this property as her dowry and married her off. Soon, you too were ready for marriage. We found a good girl who had an MA degree. Both of you got jobs in government high school. Financially, you had no more problems Your youngest sister Thangam was struck by polio. Thangam would never get married but we saw to it that she could work. She was a trained nursery school teacher. ...”

But the family’s pride and joy in the only son was to be belied : “We did not live happily after your father’s death. For you my son, my only son seized his entire property and turned us out of the ancestral home. ... We moved into the house of your married sister Mariamma. She was living there alone with her little son. Her husband, a drunkard, had abandoned his wife and child, and disappeared.

“Papechan, at that time, you promised to give your sisters two acres of land, out of the 15 odd acres. But you did not even perform this merciful act. Of this, 70 cents of land was in my name, given by my parents as dowry but still you refused to let me cultivate it. Another 70 cents of land in the name of Mariamma has also been seized by you. You forbade her to enter it. ...”

“When your sisters stood outside our ancestral home and asked for paddy you said you would give it only if your mother herself asked for it. So I in my old age was brought to my home in a bus to stand and beg for paddy. On two occasions you gave me paddy. The third time, you demanded that I sign a receipt for the paddy. I refused, and returned to Mariamma’s house, empty handed. Since then I have not asked and you have given nothing.”

Under the TCSA, Papechan was the

sole heir to his father’s property. But his mother had a life estate in half the land, which he denied her. Aley Chacko and her daughters joined the petition in the supreme court. Now that the TCSA has been struck down, Aley Chacko is the heir to one third of the land and the remainder is to be divided equally among all the children.

But this division applies only if the original owner of the property did not make a will. If he made a will, he could leave the property to anyone he wanted. Papechan has now suddenly produced a will, purportedly signed by his father, leaving the property to Papechan and his children. Interestingly, this will made its appearance only after the supreme court judgment.

Aley Chacko points out that on the date when the will is supposed to have been written, her husband’s right hand was paralysed. He had been paralysed for nearly six months before his death, as he was a rheumatism patient. She knows that he never wrote a will and alleges that Papechan has forged this will. But until the will is proved false in court, Aley Chacko and her daughters cannot initiate proceedings for division of property under the Indian SUCCESSION Act. Papechan has not even returned the two plots of land of 70 cents each which are in the names of his mother and sister.

Aley Chacko, now 84 years old may not live to see the day when she can return to her husband’s ancestral home.