

Cochin Christian Succession Act, 1097

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Act 6 of 1097

- Published on 5 September 1921
- Commenced on 5 September 1921
- [This is the version of this document from 5 September 1921.]
- [Note: The original publication document is not available and this content could not be verified.]

Cochin Christian Succession Act, 1097(Act No. 6 of 1097)Last Updated 16th January, 2020[Dated 05.09.1921]Preamble. - Whereas it is expedient to amend and define the rules of law applicable to intestate Succession among Christians in the Cochin State; It is hereby enacted as follows:-

1. Short title and commencement.

- This Act may be called as "The Cochin Christian Succession Act, VI of 1097" and it shall come into force on 18th Dhanu 1097.

2. Act to constitute law of Cochin in cases of intestate succession.

(1)Except as provided by this Act or by any other law for the time being in force, the rules herein contained shall constitute the law of Cochin applicable to all cases of intestate succession among Christians.(2)Saving clause. - Nothing herein contained shall be deemed to affect succession to the property of:(a)members of the European, Anglo Indian and Parangi communities,(b)the Tamil Christians of Chittur Taluk who follow the Hindu Law, or(c)any intestacy occurring before the date on which this Act came into force.

3. Interpretation clause.

- In this Act, unless there be something repugnant in the subject or context,"Sthreedhanam" means any property given to a woman, or in trust for her to her husband, his parent, or guardian, in connection with her marriage, and in fulfillment of a term of the marriage treaty in that behalf.Words expressing relationship denote only legitimate relatives. - "Son" or "daughter" or any other word which expresses relationship denotes only a legitimate relative. When owing to any physical defect of deformity it is not possible to ascertain the sex of any of the heirs of an intestate, such heir shall, for the purposes of this Act, be regarded as a female.

4. Law regulating succession to a deceased person's immovable and movable property respectively.

- Succession to immovable property situated in Cochin and belonging to a Christian is regulated by this Act wherever he may have had his domicile at the time of his death. Succession to the movable property of a deceased Christian is regulated by the law of the country in which he had his domicile all the time of his death.

5. Succession to movable property in Cochin in the absence of proof of domicile.

- If a Christian dies leaving movable property in Cochin, in the absence of proof of any domicile elsewhere, succession to the property is regulated by this Act.

6. Kindred or consanguinity.

- Kindred or consanguinity is the connection or relation of persons descended from the same stock or common ancestor. Lineal consanguinity. - Lineal consanguinity is that which subsists between two persons, one of whom is descended in a direct line from the other, as between a man and his father, grandfather and great- grand-father and so upwards in the direct ascending line, or between a man, his son, grandson, great- grandson and so downwards in the direct descending line. Every generation constitutes a degree, either ascending or descending. A man's father is related to him in the first degree, and so likewise is his son; his grandfather and grandson in the second degree; his great-grandfather and great-grandson in the third. Collateral consanguinity. - Collateral consanguinity is that which subsists between two persons who are descended from the same stock or ancestor, but neither of whom is descended in a direct line from the other. For the purpose of ascertaining in what degree of kindred any collateral relative stands to a person deceased, it is proper to reckon upwards from the person deceased to the common stock and then downwards to the collateral relative, allowing a degree for each person, both ascending and descending.

7. No distinction between those born and those conceived in the life time of the deceased.

- For the purpose of succession there is no distinction between those who were actually born in the life-time of a person deceased and those who at the date of his death were only conceived in the womb, but who have been subsequently born alive.

8. Property held to be similar.

- For the purpose of succession there is no distinction between the self-acquired property and the ancestral property or between the property of a male and that of a female.

9. As to what property deceased considered to have died in testate.

- A man is considered to die intestate in respect of all property of which he has not made testamentary disposition which is capable of taking effect.

10. Devolution of such property.

- Such property devolves upon the wife or husband or upon those who are of the kindred of the deceased, in the order and according to the rules herein prescribed.

11. When widow and son or lineal descendant of son are left.

- Where the intestate has left a widow, if he has also left a son, or lineal descendant of a son, a share equal to two-thirds of that of a son shall belong to her.

12. Where widow and daughter's lineal descendants are left.

- Where the intestate has left a widow, if he has also left lineal descendants, but no son or a lineal descendant of a son, a share equal to that of a daughter shall belong to her.

13. Where no lineal descendants are left widows share.

- If the intestate has left no lineal descendants but has left his father or mother or paternal grandfather or any lineal descendants of his father or paternal grand-father, one half of his property shall belong to the widow.

14. When widow gets entire property.

- If he has left none of the kindred referred to in Section 31 and 32 the whole of his property shall belong to his widow.

15. Widower's rights same as widows.

- The husband surviving his wife has the same rights in respect of her property if she dies intestate, as the widow has in respect of her husband's property, if he dies intestate.

16. Where no widow but lineal descendants left.

- Where the intestate has left no widow, his property shall go to his lineal descendants, or to those who are of kindred to him, not being lineal descendants, according to the rules hereinafter contained and if he has left none, it shall go to the sister.

17. Rules of distribution.

- The rules for the distribution of the intestate's property (after deducting the widow's share if he has left a widow) among his lineal descendants are as follows:-

18. Rules of exclusion.

- Every lineal descendant of the intestate who survives him excludes from the inheritance, his own descendants.

19. Where only one lineal descendant.

- If the intestate has left surviving him only one lineal descendant not excluded by the operation of the preceding section, the property shall belong to him.

20. Where more than one lineal descendant.

- If the intestate has left more than one such lineal descendant, they shall divide the inheritance as follows:-(a)If all of them are the sons of the intestate, or if all of them are his daughters, equally.(b)If some of them are his sons and others are his daughters, each daughter shall take one third of the share of a son.(c)If some of all them are related to him more remotely than in the first degree, the property shall be divided into such a number of shares as shall correspond with the number of his children who either survived the intestate or died before the intestate leaving descendants surviving the intestate; the shares so allotted shall bear the same ratio to each other as if such children had all survived the intestate; the children of the intestate, if any, who survived him, shall take the shares so allotted to them; the share of each of the remaining children shall be divided among his or her lineal descendants per stripes and in such manner that the share allotted to a female who either survived the intestate or died before him leaving lineal descendants surviving him, shall be equal; to that of each of such her sisters and one third of each of such her brothers, and the share allotted to a male, who either survived the intestate or died before the intestate leaving lineal descendants surviving the intestate shall be equal to that of such his brothers, as either survived the intestate or died before the intestate, leaving lineal descendants surviving the intestate.

21.

(a)Sthreedhanam brought into hotchpot. - For the purposes of determining the share of a woman or her lineal descendants, as the case may be, at the intestacy of her father, mother, paternal grandfather, when a Sthreedhanam had been given or contracted to be given, to, or in trust for, her by any of her said ascendants whomsoever, the amount for her Streedhanam, or its value at the date of its intestacy, if it was not money, shall be brought into hotchpot.Proviso (1): Nothing in this section shall be construed to make a woman or her lineal descendant liable to refund any portion of her Streedhanam or its value.Proviso (2): When the Streedhanam of a woman has been once brought into hotchpot, and a share or become due as provided in this section, it shall not be brought

into hotchpot again at any subsequent intestacy.(b)Streedhanam a charge on the estate. - The Streedhanam which an intestate contracted to give shall be a charge on his estate.

22. Exclusion of woman who has received Streedhanam.

- Notwithstanding anything in the foregoing provisions of this Act, when a Streedhanam has been given or contracted to be given by the father, mother, paternal grandfather or the paternal grand-mother, of a woman, to or in trust, for, her, neither the said woman nor any lineal descendant of hers as such, shall be entitled to a distributive share in the property of any of them dying intestate, if (1) a brother of the said woman, being a lineal descendant of the intestate, or (2) the lineal descendants of such a brother, survive the intestate.

23. Passaram, no necessary presumption from.

- Notwithstanding proof that a Passaram was paid to the Church on the occasion of a marriage, it is a question of fact,(a)Whether any Streedhanam was given or contracted to be given, and(b)Whether the amount fixed for calculating the Passaram as its sub-multiple is the amount of the Streedhanam given or contracted to be given(c)Where the intestate has left no lineal descendants:

24. Where no lineal descendants are left.

- Where the intestate has left no lineal descendant, the rules for the distribution, of his property (after deducting the widow's share if he has left a widow) are as follows:-

25. Father's right.

- If the intestate's father is living he should succeed to the property.

26. Mother when there are brothers or descendants of brother.

- If the intestate's father is dead, but the intestate's mother is living, and there are also brothers of the intestate by the same father who either survive him or having predeceased him, have left lineal descendants surviving him, a share equal to that if such a brother shall belong to the mother.

27. Mother when there are sisters or their descendants.

- If the intestate's brother is dead, but the intestate's mother is living and there are no kindred of the class mentioned in the proceeding section, but there are sisters of the intestate by the same father, who survived the intestate or having predeceased him, have left lineal descendants surviving the intestate, a share equal to that of such a sister shall belong to the mother.

28. Mother when paternal grandfather or his descendants living.

- When she intestate's mother is living and he has left none of the other kindred referred to in sections 25 to 27, but his paternal grandfather or the lineal descendants of his paternal grandfather is or are living, one half of his property shall belong to his mother.

29. Mother in other cases.

- When the intestate's mother is living and he has left none of the other kindred mentioned in sections 25 to 28, the property shall belong to his mother.

30. Sections 31 to 34 subject to sections 26 to 29.

- The rules of succession stated hereunder in sections 31 to 34 are subject to the provisions of sections 26 to 29.

31. When father is dead leaving lineal descendants.

- If the intestate's father is dead, the property shall be inherited by the lineal descendants of the father in the same manner as it would if the father survived him and died intestate immediately after leaving no widow.

32. Right of paternal grand-father.

- If the intestate's father is dead, and there are no lineal descendants of the father, the property shall go to the paternal grand-father of the intestate.

33. Where paternal grand-father dead.

- If the intestate's paternal grand-father is dead, the property shall be inherited by the lineal descendants of the paternal grand-father in the same manner as if the paternal grandfather survived the intestate and died intestate immediately after, leaving no widow.

34. Right of paternal grandfather.

- If the paternal grandfather is dead, and there are no lineal descendants of the paternal grand-father surviving the intestate, the property shall belong to the paternal grandmother.

35. Where intestate has left none of the foregoing kindred.

- Where the intestate has left no widow nor any kindred capable of inheriting under the preceding rules, his property shall be divided equally among those of his relatives who are in the nearest degree of kindred to him.

36. Illegitimate children.

- Notwithstanding anything herein contained to the contrary, illegitimate children or their lineal descendants are entitled to inherit the property of their mother, subject to the share which devolves on her husband if any as if they were legitimate.