A widow’s entitlement to the property of her late husband

5th November, 2019

In 2018, two weeks after her husband of 25 years had been buried, Mariatu was summoned to a meeting by her in-laws. “The family has agreed that your husband’s younger brother would take you as his fifth wife. He will be in charge of your 3 children and his brother’s property. You cannot refuse or else you have to leave the home empty-handed. This is our custom.” Said Mr. Kabbah, one of her in-laws.

The custom cited by Mr. Kabbah is known as “Widow Inheritance”. It is widely practiced among certain ethnic groups in Sierra Leone and contravenes core international human rights principles such as the Convention on the Elimination of all Forms of Discrimination Against Women.

Under the pressure of the international community, the Government enacted the Devolution of Estates Act in 2007. The Act repealed portions of the Christian Marriage Act, the Muslim Marriage Act and the Administration of Estate Act. It is the principal legislation that determines how to share the estate (property) of someone who dies without making a will (intestate) regardless of their religion, ethnicity or customs. It strongly protects the right of a widow to inherit the property of her late husband and stipulates punishment for anyone who violates that right. Section 6 gives a widow all the property of her husband if he dies without making a will and is not survived by a child or grandchildren. Sec 8 gives a widow 35% of her husband’s property if he is also survived by a child and a parent. And most importantly, Section 9 states that where a married man dies leaving only one house, it belongs to his widow and child equally. This right does not, however, apply to the family property, community property or chieftaincy property.

Section 32 of the act stipulates punishment for anyone who contravenes the law. It imposes a fine of Le 5000,000 or 1-year imprisonment for defaulters. A magistrate may even impose both the fine and imprisonment.

So, if your husband dies without leaving a will, it is important that you speak to a lawyer to help you apply for the relevant documents so as to inherit your share of his property. If you cannot afford the cost of a lawyer, there are few non-governmental organizations that may help you free of cost. Some of these organizations are the Legal Aid Board, LAWYERS, and LEWAF. You will need to provide them with documents such as the death certificate of your late husband, marriage certificate (or customary marriage certificate) and title deeds of any property.
In a case where your husband’s family wants to infringe on your right in the name of custom, you may report the matter to the Family Support Unit of any police station. The Police have an obligation to either resolve the issue through mediation or depending on the evidence charge the matter to court. You must remember that even if you were not married to your “husband”, you are still entitled to his property provided you had continually cohabited with him for a period of 5 years before his death.

What happened to Mariatu is plainly illegal and an aberration of the law. Widows have a legal right to inherit the property of their husbands without preconditions. Do not become another victim of an outdated customary practice.

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