

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

PIL No. 36 of 2021

Shri Okram Nutankumar Singh, aged about 41 years, S/o Okram Kala Singh, a resident of Singjamei Okram Leikai, P.O. & P.S. Singjamei, Imphal West District, Manipur, PIN-795008

..... Petitioner/s

- Versus -

The State of Manipur through the Commissioner (Revenue), Government of Manipur, Manipur Secretariat, P.O. & P.S. Imphal, Imphal West District, Manipur, PIN – 795001.

.....Respondent/s

with

PIL No. 55 of 2021

Shri Moirangthem Sanajaoba Singh aged about 48 years old S/o M. Bidhu, a resident of Kongba Uchekon, Bashikhong, P.O. Singjamei & P.S. Irilbung, Imphal East, Manipur-795008

.....Petitioner/s

-VS.-

1. The State of Manipur represented by the Chief Secretary, Government of Manipur, Old Secretariat, South Block, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.
2. The Commissioner (Revenue), Government of Manipur, Old Secretariat, South Block, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.
3. The Director Settlement of Land Records, Manipur having its office at Lamphelpat, Imphal West District, P.O. & P.S. Lamphelpat, Manipur-795004.

.....Respondent/s

B E F O R E

HON'BLE THE ACTING CHIEF JUSTICE M.V. MURALIDARAN HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

For the petitioner	::	Mr. Mr. M. Rakesh, Adv. in PIL No. 36 of 2021 and Mr. N. Jotendro, Sr. Adv. in PIL No. 55 of 2021 assisted by Mr. Abdul Baqee Khan, Adv.
For the respondents	::	Mr. M. Devananda, Addl. A.G. assisted by Mr. Tomclist, Adv.
Date of Order	::	03.07.2023

ORDER (ORAL)

A. Guneshwar Sharma, (J)

[1] Heard Mr. M. Rakesh, learned counsel for the petitioner in PIL No. 36 of 2021, Mr. N. Jotendro, learned senior counsel assisted by Mr. Abdul Baqee Khan, learned counsel for the petitioner in PIL No. 55 of 2021 and Mr. M. Devananda, learned Addl. A.G. assisted by Mr. Tomclist, learned counsel for the respondents.

[2] Both the PILs have challenged the Office Memorandum dated 07.07.2021 issued by the Deputy Secretary (Revenue), Government of Manipur where certain arbitrary conditions have been imposed on the registration of deed of transfer of landed property by way of sale or gift deed. Since both these petitions are arising out of the same impugned notification, they are considered and heard together and are being disposed of by this common order.

[3] The Manipur Regulation of Sale Deed Registration Rules, 2019 was published on 27.11.2019 in Manipur Gazette imposing certain obligations on the Sub-Registrar in order to ensure effective and proper

registration of deeds of sale and gift. Thereafter, an O.M. dated 10.01.2020 was issued by the Revenue Department, Government thereby imposing a complete ban of sale and purchase of immovable properties.

[4] The petitioner herein challenged the O.M. dated 10.01.2022 before this Court by way of a PIL being PIL No. 5 of 2021. Subsequently, another O.M. dated 02.02.2021 was issued by the Revenue Department, Government of Manipur by putting a ban on registration of gift deed. The petitioner also challenged the said office memorandum before this Court by way of a PIL being No. 11 of 2021. Thereafter, the Deputy Secretary (Revenue), Government of Manipur issued another O.M. dated 07.07.2021 thereby revoking earlier 2 (two) O.Ms. dated 10.01.2020 and 02.02.2021 and imposing certain arbitrary conditions on the registration of deed of transferring of land by way of sale and gift deed, such as- production of permanent residence certificate, police verification of the buyer by the concerned District Magistrate and confirmation of a Cabinet Sub-Committee has been made mandatory in case of registration of sale deed and registration of gift deed should be within the family. The notification dated 07.07.2021 reads as follows:

“OFFICE MEMORANDUM
Imphal, the 7th July, 2021

No. 16/16/2019-R(SALE DEED): The temporary suspension of registration of transaction (sale, purchase and gifts) of land and property imposed vide Government Office Memorandum of even number dated 10.01.2020 is hereby lifted with immediate effect as follows:

(i) Registration of transaction (sale and purchase) of land among the permanent residents of the State is allowed on fulfilment of the following conditions:

- (a) Production of PRV (Permanent Residence Certificate) of the buyer issued by the concerned District Magistrate.*
- (b) Police verification in respect of the buyer through concerned District Magistrate. Verification will cover enquiry into the source of money to be utilised for the said purchase and criminal antecedents of the buyer.*

(c) Confirmation by Cabinet Sub-Committee consisting of Revenue Minister as Chairperson and Law Minister and Agriculture Minister as Members.

(ii) Registration of transaction (Gifts) within the family:

Registration of Gift Deeds executed among the members of a family is allowed without the above mentioned conditions. For the purpose of this transaction, family is as defined in the Manipur Land Revenue and Land Reforms Act, 1960.

This issue in pursuance of the decision of the State Cabinet held on 23.06.2021.

*(L. Geetchandra Singh)
Deputy Secretary (Revenue),
Government of Manipur.”*

[5] The prayers in both the PILs are reproduced as below:

“PIL No. 36 of 2021:

- (i) to admit this writ petition and issue rule Nisi;*
- (ii) to issue a writ in the nature of Certiorari or any other appropriate writ or order for quashing the impugned Office Memorandum dated 7th July 2021 (Annexure-A/5) issued by the Deputy Secretary (Revenue), Government of Manipur, in so far as it imposes arbitrary conditions on registration of deed for transfer of landed properties by way of sale or gift;*
- (iii) In the interim pending of the present writ petition, to pass an order suspending/staying the impugned Office Memorandum dated 7th July 2021 (Annexure-A/5) till the disposal of the writ petition for the ends of justice and to protect the rule of law;*
- (iv) to pass any other/further order/writ/directions, which the Hon’ble Court may deem fit and proper in the facts and circumstances of the case.”*

“PIL No. 55 of 2021:

- (i) issue rule and call for records;*
- (ii) issue a writ in the nature of certiorari or mandamus or any other appropriate writ of the*

- like nature for partially quashing and setting aside the condition laid down at Clause No. (i)(c) of the impugned Office Memorandum dated 07.07.2021 issued by the Deputy Secretary (Revenue), Government of Manipur as available at Annexure-A/1 as illegal and violative of the fundamental rights of the general public;*
- (iii) *in the interim, suspend/stay the said Clause No. (i)(c) of the Office Memorandum dated 07.07.2021 issued by the Deputy Secretary (Revenue), Government of Manipur pending final disposal of the PIL; and*
- (iv) *pass any order/orders or direction/directions which this Hon'ble Court may deem fit and proper to secure the ends of justice."*

[6] The main grounds of challenge in both the PILs are that the imposition of 3 (three) conditions by impugned O.M. dated 07.07.2021 is violative of the principles laid down in Articles 14 and 15 of the Constitution of India.

[7] It may be noted that upon the issuance of O.M. dated 07.07.2021, the earlier 2 (two) O.Ms. dated 10.01.2020 and 02.02.2021 become infructuous and vide order dated 01.09.2021, a Division Bench of this Court disposed of the pending two PILs as infructuous, since the cause in the matter did not survive for consideration on merit. Thereafter, the parties filed counter affidavits and rejoinder affidavits in this matter. It may be noted that vide common order dated 07.07.2022, this Court recorded the statements of Mr. Lenin Hijam, learned A.G., to the effect that the State Government was in the process of taking a policy decision afresh and a notification would be issued shortly in relation to registration of sale deeds and gift deeds pertaining to immovable property in the State of Manipur.

[8] In pursuance to the undertaking given by the learned A.G. on 07.07.2022, the State Government issued a notification dated 10.03.2023 which is an amendment to the Manipur Regulation of Sale Deed Registration Rules, 1990 thereby laying down certain guidelines for

registration of sale deed, gift deed or mortgage deed by an indigenous person to a non-indigenous person as defined in the Bengal Eastern Frontier Regulation, 1873 as adopted in the State of Manipur vide Government of India Gazette Notification dated 11.12.2019 in the amendment Rules of 2023. The approval by the Cabinet Sub-Committee and verification from the District Magistrate and by the Police have been done away and, in that place, a verification from the Gram Sabha or Urban Local Body is made mandatory. 'The Bengal Eastern Frontier Regulation, 1873 (Amendment) Order 2019' and 'The Manipur Regulation Sale Deed Registration (Amendment) Rules, 2023' are reproduced for ready reference:

“Ministry of Home Affairs

The Adaptation of Laws (Amendment) Order, 2019

New Delhi, the 11th December, 2019

S.O. 443 (E).- In exercise of the powers conferred by clause (2) of article 372 of the Constitution of India and of all other powers enabling him in that behalf, the President is pleased to make the following order, namely:-

- 1.(1) This order may be called the adaptation of Laws (Amendment) order, 2019.*
- (2) It shall come into force on the date of its publication in the Official Gazette.*

2. In the Third Schedule to the Adaptation of Laws Order, 1950, for the directions relating to the Bengal Eastern Frontier Regulation, 1973, the following shall be substituted, namely:-

“Preamble:- In the opening paragraph, for “districts of Kamrup, Darrang, Nowgong, Sibsagar, Lakhimpur, Naga Hills, Cachar” substitute “States of Arunachal Pradesh, Manipur, Mizoram and area of districts of State of Nagaland as notified from time to time.

Section 1:- For “districts” substitute “States”.

Section 2:- For “districts”, occurring at both the places, substitute “States” and in the second paragraph, for “district” substitute “State”.

Section 4:- In the first paragraph, for “district” substitute “State”.

Section 6:- For “district”, occurring at both the places, substitute “State”.

Section 7:- In the marginal heading, for “districts” substitute “States” and for “districts”, occurring at both the places, substitute “States:.”

RAM NATH KOVIND
President.

New Delhi,
11th December, 2019.”

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MANIPUR GAZETTE EXTRAORDINARY

PUBLISHED BY AUTHORITY

No. 539 Imphal, Monday, March 27, 2023 (Chaitra 6, 1945)

GOVERNMENT OF MANIPUR

SECRETARIAT: REVENUE DEPARTMENT

NOTIFICATION

Imphal, the 10th March, 2023

No. ARREV-103/1/2023-REV-REVENUE: - In exercise of the powers conferred under section 69(1)(g) of the Registration Act, 1908, the Inspector General of Registration hereby makes the following rules further to amend the Manipur Regulation of Sale Deed Registration Rules, 2019, namely:

1. Short title and commencement:-

1) These rules may be called the Manipur Regulation of Sale Deed Registration (Amendment) Rules, 2023.

2) These rules shall come into force from the date of their publication in the Official Gazette.

2. In the Manipur Regulation of Sale Deed Registration Rules, 2019 (hereinafter referred to as the principal rules), the heading "Short title and commencement" shall be numbered as "1." And the remaining rules shall be renumbered accordingly.

3. Amendment of rule 2 so renumbered: - In rule 2 of the principal rules so renumbered, after clause (f), the following shall be inserted, namely:-

“(g) (i) The registration of sale deed, gift deed or mortgage deed shall not be in contravention of any of the provisions of the Bengal Eastern Frontier Regulations, 1873, as adopted in the State of Manipur vide Ministry of Home Affairs, Government of India Gazette Notification dated 11.12.2019 and rules and guidelines issued thereunder.

(ii) No deed shall be registered for transfer of land by way of gift, sale or mortgage, from an Indigenous Person to a Non-Indigenous Person, as defined under rules or guidelines framed under the Bengal Eastern Frontier Regulations, 1873 as adopted In the State of Manipur vide Ministry of Home Affairs, Government of India Gazette Notification dated 11.12.2019.

(iii) Notwithstanding the above, registration may be permitted, if the persons involved in the transfer of land by way of gift, sale or mortgage, who being Non-Indigenous Persons, are Permanent Residents of the State of Manipur, as defined under rules or guidelines framed under the Bengal Eastern Frontier Regulations, 1873 as adopted in the State of Manipur vide Ministry of Home Affairs, Government of India Gazette Notification dated 11.12.2019.

(iv) Further, for the purpose of meeting the requirements of sub-clause (i), (ii) and (iii) above, the Sub-Registrar shall call for a resolution in a format as may be prescribed by the Government in this regard of the Gram Sabha concerned, in case the subject land is located in a rural area, or of the Urban Local Body concerned, in case the subject land is located in an urban area, recommending such registration.

(v) Such resolution shall be signed by hand and seal of the Panchayat Secretary or Executive Officer of the local body concerned, appointed as such under provisions of the Manipur Panchayati Raj Act, 1994 or the Manipur Municipalities Act, 1994 or under rules framed thereunder, as amended from time to time.

(vi) Notwithstanding the above, when such resolution is not forthcoming for any reason whatsoever, Government may accord approval for the Sub-

Registrar to proceed with the registration, in such cases as Government may deem fit.

(vii) Notwithstanding proviso to rule 84 of the MLR&LR Rules, 1962, regarding resolution of the Gram Sabha concerned or the Urban Local Body concerned for recommending mutation for arriving at a satisfaction of the Authority, such resolution for recommending registration taken in pursuance of this rule as herein provided, shall suffice for the purpose of satisfying the Authority for mutation of the same subject land.”

*NAMOIJAM KHEDA VARTA SINGH,
Inspector General of Registration
Government of Manipur.*

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[9] It has been submitted at the bar that with the issuance of the Notification dated 10.03.2023 as ‘The Manipur Regulation of Sale Deed Registration (Amendment) Rules, 2023’, the learned Addl. A.G. for the State has fairly stated that the grievances of the petitioners have been taken care of by the amendment of 2023 by deleting the clause of placing before the Cabinet Sub-Committee for approval and police verification and permission from the District Magistrate. It is further stated that the PILs may be disposed of in terms of the Notification dated 10.03.2023. Learned counsel for the petitioners have also acknowledged this new development.

[10] We have perused the materials on record and specially, the Notification dated 10.03.2023 notifying ‘the Manipur Regulation of Sale Deed Registration (Amendment) Rules, 2023’ and the same has deleted the controversial clauses. The permanent residence certificate, police verification and confirmation by the Cabinet Sub-Committee for transferring of registration of sale deed and making gift deed within the family have been deleted and, in that place, approval of the verification by the local

bodies is introduced. The amendment of 2023 has taken care of all the grievances of the petitioners in both the matters.

[11] Considering the subsequent development of issuance of the Notification dated 10.03.2023 notifying 'The Manipur Regulation of Sale Deed Registration (Amendment) Rules, 2023', these PILs are disposed of in terms of the above observations. No cost.

JUDGE

ACTING CHIEF JUSTICE

FR/NFR

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KH. JOSHUA
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