



**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

Tr.P.(C) No. 2 of 2023

Maringmei Acham, aged about 62 years, S/o Late
Maringmei Thaitoungam of Lamdan Kabui Village, P.O.
& P.S. Loktak, Churachandpur District, Manipur.

.....Petitioner

-Versus-

1. Shri M. Khuripou, aged about 50 years, S/o Late of M.
Makuchung of Lamdan Kabui Village, P.O. & P.S.
Loktak, Churachandpur District, Manipur.
2. Shri Kamei Terence, aged about 35 years, S/O K.
Latuongpou, Secretary, Lamdan Kabui Village,
resident of Lamdan Village, P.O. & P.S. Loktak
Project, Henglep Sub-Division, Churachandpur
District, Manipur.

..... Respondents

-BEFORE-

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

For the Petitioner	::	Mr. S. Abung, Advocate
For the Respondents	::	Mr. N. Umakanta, Adv., Mr. E. Lalleiba, Adv.
Date of Hearing and Judgment & Order	::	11.09.2023

JUDGMENT AND ORDER
(ORAL)

Heard Mr. S. Abung, learned counsel for the petitioner and Mr. Lalleiba, junior counsel to Mr. N. Umakanta, learned counsel for the respondents.

2. This petition has been filed by the petitioner under Section 24 of Code of Civil Procedure, 1908, to transfer the consolidated Original (Declaratory) Suit No.3 of 2014 and Original (Injunction) Suit No.34 of 2014 along with its Miscellaneous Cases in the Court of similar jurisdiction at Bishnupur from the Court of Civil Judge (Senior Division), Churachandpur.

3. Mr. S. Abung, the learned counsel for the petitioner submitted that the petitioner's father had filed a suit for declaration before the Civil Judge (Senior Division), Churachandpur being Original (Declaratory) Suit No.3 of 2014. Pending suit, the petitioner's father died and the suit is made survived by the petitioner as legal heir. While Original (Declaratory) Suit No.3 of 2014 is pending, the respondents have filed Original (Injunction) Suit No.39 of 2014 and the same is also pending before Civil Judge (Senior Division), Churachandpur.

4. The learned counsel further submitted that during the course of pendency of the suits and as a result of an order challenged

in CRP, which was passed in favour of the respondents, a Special Leave to Appeal (C) No.665 of 2021 was filed before the Hon'ble Supreme Court. While setting aside the order passed in the CRP, the Hon'ble Supreme Court directed to dispose of the said two suits within eight months.

5. The learned counsel for the petitioner then submitted that the Civil Judge (Senior Division), Churachandpur had consolidated the two suits and trial was made to start. Unfortunately, the Kuki-Meetei ethnic clash begins from 3.5.2023 which hamper and made impossible for the petitioner and his counsel to go to Churachandpur Court of Civil Judge (Senior Division) located at proper Churachandpur. Thus, the two suits may be transferred to the Bishnupur Court of Civil Judge (Senior Division).

6. This Court also heard the submissions of the learned counsel for the respondents.

7. This Court considered the submissions made by both the learned counsel for the parties and also perused the materials available on record.

8. The Original (Declaratory) Suit No.3 of 2014 has been filed by the father of the petitioner and after his demise, the petitioner is prosecuting the suit by impleading as plaintiff. The respondents

have filed Original (Injunction) Suit No.39 of 2014 and now both the suits are pending before the Civil Judge (Senior Division), Churachandpur.

9. The petitioner had preferred Special Leave to Appeal (C) No.6065 of 2021 against the order dated 11.3.2021 made in CRP No.29 of 2019 and the Hon'ble Supreme Court granted leave and the appeal was taken on file as Civil Appeal No.8104 of 2022. By the judgment dated 3.11.2022, the Hon'ble Supreme Court set aside the order dated 11.3.2021 and allowed the appeal. While allowing the appeal, the Hon'ble Supreme Court observed as under:

“In this regard, we find that in the interest of justice, since the suits are still pending and the issue must be decided in the said suits, it would be more appropriate if we direct that the suits filed by both the appellant's father and the respondent are taken up and decided within a reasonable time. In this regard and to facilitate the same, we record the submission of the appellant and the appellant will not press Civil Miscellaneous appeals.

We record the submission and we allow the appeal and set aside the order of the High Court and having regard to the commonality of the issues which appear to arise and the commonality of the parties to the suits, we further

direct that Original (Declaratory) Suit No.3 and the Original (Injunction) Suit No.39 of 2014 shall be consolidated and the case be disposed of as early as possible and within a period of eight months from the date of production of a copy of this judgment before the Civil Judge (Senior Division), Churachandpur.”

10. On 21.7.2023, the Civil Judge (Senior Division), Churachandpur, addressed a letter to the Registrar General, High Court of Manipur stating that due to law and order situation in Manipur, the suits could not be taken up and requested the High Court to take steps to seek further extension for disposing of the suits. Based on the letter of the Civil Judge (Senior Division), Churachandpur, on 29.7.2023, the Registrar General, High Court of Manipur, addressed a letter to the Secretary General, Supreme Court of India praying for extension of six months' time for disposing of the suits. Pursuant to the letter of the High Court, the Hon'ble Supreme Court registered Miscellaneous Application No.1879 of 2023 in C.A.No.8104 of 2022. The Hon'ble Supreme Court, by the order dated 28.8.2023, upon hearing the parties, disposed of the said Miscellaneous Application. The order dated 28.8.2023 reads thus:

“The order passed by this Court in the Civil Appeal No.8104 of 2022 is perused.

2. Under the said order, the two suits i.e., the Original (Declaratory) Suit No.3 of 2014 and Original (Injunction) Suit No.39 of 2014 pending before the Civil Judge (Senior Division), Churachandpur were to be consolidated and were to be disposed of within a period of eight months from the date of production of a copy of this Court's judgment dated 03.11.2022.

3. We have noted the circumstances mentioned in the communication dated 29.07.2023 of the Registrar General of the High Court of Manipur. Having considered the same, the time for disposal of the two suits [Original (Declaratory) Suit No.3 of 2014 and Original (Injunction) Suit No.39 of 2014], is extended by 12 months. With the above, the Miscellaneous Application accordingly stands disposed of. This order be immediately communicated to the Registrar General of the Court concerned.

4. Pending application(s), if any, shall stand closed."

11. It appears that the learned Civil Judge (Senior Division), Churachandpur consolidated the suits for trial. According to the petitioner, it is impossible for the petitioner and his counsel to go to Churachandpur and be physically present to conduct the trial in view of the prevailing law and order situation.

12. The prayer of the petitioner has not been seriously opposed by the respondents. In fact, they admitted the prevailing law and order situation in Churachandpur.

13. Section 24 of the CPC provides:

“24. General power of transfer and withdrawal.-

(1) On the application of any of the parties ad after notice to the parties and after hearing such of them as desired to be heard, or of its own motion without such notice, the High Court or the District Court may at any stage –

(a) Transfer any suit, appeal or other proceeding pending before it for trial or disposal to any Court subordinate to it and competent to try or dispose of the same, or

(b) Withdraw any suit, appeal or other proceeding pending in any Court subordinate to it, and

(i) try and dispose of the same; or

(ii) transfer the same for trial or disposal to any Court subordinate to it and competent to try and dispose of the same; or

(iii) retransfer the same for trial or disposal to the Court from which it was withdrawn.

(2) Where any suit or proceeding has been transferred or withdrawn under sub-section (1), the Court which is thereafter to try or dispose of

such suit or proceeding may, subject to any special directions in the case of an order of transfer, either retry it or proceed from the point at which it was transferred or withdrawn.

(3) For the purpose of this Section, -

(a) Courts of Additional and Assistant Judges shall be deemed to be subordinate to the District Court;

(b) "proceeding" includes a proceeding for the execution of a decree or order.

(4) The Court trying any suit transferred or withdrawn under this Section from a Court of Small Causes shall, for the purposes of such suit, be deemed to be a Court of Small Causes.

(5) A suit or proceeding may be transferred under this Section from a Court which has no jurisdiction to try it."

14. The reason for transferring the suits from the file of Civil Judge (Senior Division), Churachandpur has been clearly spelt out by the petitioner in his petition. This Court is satisfied with the reason stated in the petition for transfer of the suits.

15. Taking into consideration the difficulties expressed by the petitioner and his counsel to go to Churachandpur in view of the clash and since the respondents may not have any serious objection

in transferring the said two suits from the file of Civil Judge (Senior Division), Churachandpur, it would be appropriate to transfer the aforesaid two suits to file of Civil Judge (Senior Division), Imphal East.

16. In the result,

- (i) The Transfer Petition (C) No.2 of 2023 is allowed.
- (ii) The Original (Declaratory) Suit No.3 of 2014 and the Original (Injunction) Suit No.39 of 2014 pending on the file of Civil Judge (Senior Division), Churachandpur are ordered to be transferred to the file of the Civil Judge (Senior Division), Imphal East.
- (iii) The learned Civil Judge (Senior Division), Imphal East is directed to dispose of the aforesaid two suits within the extended period of 12 months granted by the Hon'ble Supreme Court in Miscellaneous Application No.1879 of 2023 in C.A.No.8104 of 2022, dated 28.8.2023.

- (iv) The learned Civil Judge (Senior Division), Imphal East is directed to follow the order dated 28.8.2023 passed by the Hon'ble Supreme Court strictly and dispose of the suits on merits and in accordance with law by conducting the case on day to day basis.
- (v) Both parties are directed to co-operate with the learned District Judge, Imphal East for speedy trial without seeking for any unnecessary adjournments.
- (vi) The Registry is directed to communicate this order along with the orders of the Hon'ble Supreme Court to both the Civil Judge (Senior Division), Churachandpur and the Civil Judge (Senior Division), Imphal East for further action immediately.
- (vii) No costs.

ACTING CHIEF JUSTICE

FR/NFR

Sushil