

IN THE HIGH COURT OF MANIPUR
AT IMPHAL
CRP (CRP Art. 227) No. 64 of 2019

Mst. Mumtaz, aged about 42 years, D/o (L) Md. Abdul Majid & W/o Md. Mahamuddin resident of Sekmajin Hangul Mayai Leikai, P.O & P.S. Hiyanglam, Kakching District, Manipur - 795132

.....Revision Petitioner/s

- Versus -

1. Md. Manab, aged about 45 years S/o (L) Md. Abdul Majid of Porompat Kshetri Leikai, P.O. & P.S. Porompat in Imphal East District, Manipur.

..... Principal Respondent/s

2. Mst. Tamabi Begum, aged about 75 years W/o (L) Md. Abdul Majid.
3. Miss. Nadira, aged about 50 years D/o (L) Md. Abdul Majid.
4. Miss Sahela, aged about 27 years D/o (L) Md. Abdul Majid.
5. Miss Rahat, aged about 25 years D/o (L) Md. Abdul Majid.
6. Md. Aziz, aged about 22 years S/o (L) Md. Abdul Majid.
7. Mst Rajiya, aged about 35 years W/o (L) Md. Jahir Khan.
8. Miss Sufiya, aged about 12 years D/o (L) Md. Jahir Khan.
9. Master Irfan Hussain, aged about 10 years S/o (L) Md. Jahir Khan.
10. Master W. Arish Hussain, aged about 9 years S/o (L) Md. Jahir Khan.
11. Master W. Arman Hussain, aged about 5 years S/o (L) Md. Jahir Khan.

.....Proforma Respondents.

.....All the proforma respondents are residents of Porompat Kshetri Leikai, P.O. & P.S. Porompat in Imphal East District, Manipur-795005.

.....Proforma Respondents No. 8, 9, 10 & 11 being minors are represented by their natural mother, Mst. Rejiya who is the Proforma respondent No. 7.

B E F O R E
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

For the petitioner	:	Paul Touthang, Advocate
For the respondents	:	None
Date of hearing	:	08.02.2023
Date of Judgment and Order	:	16.02.2023

JUDGMENT & ORDER

CAV

16.02.2023

[1] The present revision petition has been preferred by the present petitioner against the impugned order dated 01.10.2019 passed by the learned Presiding Officer, Revenue Tribunal, Manipur, in Revenue Misc. Case No. 6 of 2019. By the impugned order, the Learned Tribunal have rejected the application under Section 5 of the Limitation Act filed by the petitioner for condoning delay of 151 (one hundred and fifty one) days in filing the accompany Revenue Revision challenging the order dated 08.06.2018 passed by the Ld. Sub-Deputy Collector, Porompat in Revenue Mutation Case No. 499/SDC/P of 2018.

[2] The brief fact of the present case is that the petitioner is the younger sister of the Principal Respondent No. 1 and the Proforma Respondent No. 2 is her mother. Proforma Respondents No. 3, 4, 5 & 6 are her brothers and sisters and Proforma Respondent No. 7 is the wife of the petitioner's deceased younger brother Md. Jahir Khan and Proforma Respondents No. 8, 9,10 & 11 are the sons and daughters of the petitioner's deceased younger brother and Proforma Respondent No. 7. The petitioner father Md. Abdul Majid, who expired sometime in the year 2000, left behind a piece of homestead land recorded in his name at Porompat under Patta No. 49 (old), 76/379(new) covered by CS Dag No. 19/348 measuring an area of .26 acres in village No. 28 Porompat. The homestead land is referred to as the suitland. Sometime in the month of October, 2018, the Principal Respondent who have already shifted to his

wife's place came to the paternal home of the petitioner and informed the Proforma Respondents that he had mutated his name and that of the Proforma Respondents in the land record of the suit land and the name of the petitioner was not included in the mutation case. The Principal Respondent No. 1 approached Legal Aid Clinic, Cheirap to justify his action and issued summon to the Proforma Respondent No. 2 in the last part of October, 2018. In the Legal Aid Clinic at Cheirap Court Complex, it was settled that the exclusion of the petitioner's name was incorrect and her name would be included in the land record. In the last part of December, 2018, the petitioner went to her paternal house to find out whether the necessary correction of the land record as undertaken by the Principal Respondent No. 1 had been done or not and the same was not done as agreed. So, having no option, the petitioner filed a revenue revision case before the Revenue Tribunal, Manipur to challenge the order dated 08.06.2018 passed by the Ld. Sub-Deputy Collector, Porompat as Mutation Case No. 499/SDC/Porompat of 2018. It is stated that the petitioner came to know about the mutation order only in the last part of the month of October, 2018 and further some more time was consumed in proceeding before the Legal Aid Clinic, Cheirap Court and the undertaking by the Principal Respondent No. 1 and the Principal Respondents to make correction in the land record. As such a delay of 151 (one hundred fifty one) days occurred in filing the revenue revision case. Accordingly, the petitioner filed an application under Section 5 of Limitation for condonation of delay of 151 days in filing the revision case. By the order dated 01.10.2019, the application for condonation of delay was rejected on the ground that 90 (ninety) days has been prescribed by Section 95 of the MLR & LR Act, 1960 for filing a revision. The cause shown by the petitioner in approaching the Legal Aid Clinic for counseling the matter and for referring a revision is not sufficient. Hence, the application was rejected.

[3] The impugned order is challenged on the ground that the Ld. Revenue Tribunal has failed to appreciate the fact that the petitioner came to know about the impugned order only in the month of October, 2018 and

the matter was pending before the Legal Aid Clinic, Cheirap Court Complex for settlement as a pre-litigation matter and the parties agreed to include the name of the petitioner in the land record.

[4] Heard Mr. S. Paul Touthang, learned counsel for the petitioner and none appears on behalf of the respondents for the 9 (nine) consecutive dates.

[5] In the circumstances, the matter was heard in absence of the respondents and perused the materials available on record.

[6] Mr. S. Paul Touthang, learned counsel for the petitioner, submits that the Ld. Revenue Tribunal has not appreciated the facts of the present case while dismissing the application for condonation of delay. The petitioner has stated that she came to know about the mutation order only in the month of October, 2018 when Principal Respondent No. 1 informed that he had done mutation without her name. Then, it took sometime for negotiating between the parties in the Legal Aid Clinic to find out an amicable settlement and it was agreed that the petitioner name would be included in the land record. Since the Principal Respondent did not honour the undertaking before the Legal Aid Clinic, the petitioner was compelled to file the revision petition before the Revenue Tribunal along with the application for condonation of delay of 151 days in filing the revision petition. It is also submitted that the limitation ought to be start from the day of knowledge that is only in the last part of the month of October, 2018 and the time taken in the proceeding to the Legal Aid Clinic ought to be excluded from counting the number of delays. It is stated that the petitioner has given a sufficient cause for the delay as the mutation was done in her absence and some time was taken in the Legal Aid Clinic.

Mr. S. Paul Touthang, learned counsel, refers to the judgment of the Hon'ble Supreme Court in the case of **Collector, Land Acquisition, Anantnag & Anr. –vs- MST. Katiji & Ors.** reported in (1978) 2 SCR 387 where it is held that *"1.1. The expression 'sufficient cause' employed by the legislature in Section 5 of the Indian Limitation Act, 1963 is adequately elastic to enable the Courts to do substantial justice to parties by disposing*

*of matters on merits.” He has also referred to another judgment of the Hon’ble Supreme Court in the case of **N. Balakrishnan –vs- M. Krishnamurthy** reported in (1998) Supp. 1 SCR 403 where it is held that “1.2. Rules of limitation are not meant to destroy the right of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage by reason of legal injury. The law of limitation fixes a life-span for such legal remedy for the redress of the legal injury so suffered. The law of limitation is thus founded on public policy. It is enshrined in the maxim *Interest reipublicae up sit finis litium* (it is for the general welfare that a period be put to litigation). The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.”*

[7] Perused the impugned order, the revision petition along with the documents on record and considered the submission of the learned counsel for the petitioner.

[8] From the record, it is seen that the mutation order was done without notice to the petitioner and that she came to know about the impugned order dated 08.06.2018 only in the month of October, 2018 when Principal Respondent No. 1 informed that he had mutated his and other respondents’ name in the land record. Then, from October to December, 2018 the parties were negotiating in the Legal Aid Clinic, Cheirap. So, the petitioner has able to give reasons for not approaching the Court in time as she was not informed about the mutation order dated 08.06.2018 and she had knowledge in the month of October and till December, the parties were negotiating before the Legal Aid Clinic, Cheirap. This Court is of the opinion that these are the sufficient cause for the petitioner for not approaching the Court within 90 (ninety) days of the stipulated time and set out to be condoned.

[9] It may be noted that the Revenue Tribunal has been declared as a Court by a decision of full bench of the Gauhati High Court (Imphal Bench) in the case of **L. Gauramani Singh –vs- State of Manipur**

reported in **(2010) 5 GLT 752**, it was held that the Revenue Tribunal constituted under the MLR & LR Act, 1960 is a Court under the Act. This Court is of the opinion that the Revenue Tribunal, being a Court, is competent to exercise the jurisdiction under Section 5 of the Limitation Act, 1963 while considering an application for condonation of delay.

In the case reported as **(2008) 8 SCC 321**, the Hon'ble Supreme Court held that the decisive factor in condonation of delay is not length of delay but the sufficiency of the satisfactory explanation. The extend or degree of leniency to be solved by the Court depend upon the nature of the application and the facts and circumstances of the case. Want of diligence or inaction can be attributed only when something required to be done is not done.

In the case of **Sri Lal Sah v. Gulabchand Sah** reported in **(1993) 1 SCC 557**, Hon'ble Supreme Court held in para 4 that when summon or notice was not served, starting point of limitation would run from the date of knowledge. Relevant para is reproduced below:

"4. Under Article 123 of the Limitation Act, 1963, a period of 30 days is prescribed for an application to set aside a decree passed ex parte. The starting point for computing the said period of limitation is the date of decree or where the summons or notice was not duly served, when the applicant had knowledge of the decree..."

[10] In the present case, the mutation was done beyond the back of the petitioner and she came to know about only in the month of October. Till October to December, they were negotiating in the Legal Aid Clinic, Cheirap Court Complex. So, these are the sufficient explanation for the delay. However, the Ld. Tribunal has failed to appreciate and consider this fact and simply held that since the petition was not filed within 90 days as prescribed by Section 95 of the MLR Act.

[11] In view of the above cited case law, this Court held that the time taken in approaching the Legal Aid Clinic, Cheirap Court is a sufficient explanation for not filing the revision petition within time and also

time till October, 2018 ought to be exempted as the petitioner has no knowledge about the impugned order dated 08.06.2018. Accordingly, revision petition is allowed and the impugned order dated 01.10.2019 passed by the learned Presiding Officer, Revenue Tribunal, Manipur, in Revenue Misc. Case No. 6 of 2019 is set aside. Delay of 151 days in approaching the Ld. Tribunal for filing the revision petition is condoned. The Ld. Tribunal is directed to registered the revision petition filed under Section 95 of the MLR & LR Act and the matter be decided as per law.

Send a copy of this order to the Ld. Revenue Tribunal for information and for doing the needful.

JUDGE

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KH. JOSHUA
MARING

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KH. JOSHUA MARING
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