

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

MC(El.Pet.) No. 157 of 2022

Lourembam Rameshwor Meetei

...Applicant/s***Vs.***

Md. Nasiruddin Khan & 4 ors.

...Respondent/s**B E F O R E****HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH****02-02-2023**

Heard Mr. N. Kumarjit, learned senior counsel assisted by Mr. N. Zequeson, learned counsel appearing for the applicant and Mr. HS Paonam, learned senior counsel assisted by Mr. BR Sharma, learned counsel appearing for respondent No. 1. None appeared for the other respondents.

[2] The present application has been filed raising objection to the filing of the replication by the Election petitioner in reply to the written statement filed by respondent No. 1 in the connected election petition on the ground that leave of this Court has not been sought for by the election petitioner for allowing him to file the said replication as mandated under Order VIII Rule 9 of the CPC. It has been submitted by Mr. N. Kumarjit, learned senior counsel appearing for the applicant that Order VIII, Rule 9 provides that no pleading subsequent to the written statement of a defendant, other than the exceptions provided therein, shall be presented except by the leave of the Court and upon such terms as the Court thinks fit.

[3] It has been strenuously submitted by the learned senior counsel that in the present case, the petitioner in the election petition has not sought any leave of this Court while filing the said replication, accordingly, the said replication deserves to be rejected outright.

[4] On the other hand, Mr. HS Paonam, learned senior counsel assisted by Mr. BR Sharma, learned counsel appearing for the respondent No. 1 submitted that the said replication had been filed by the election petitioner by way of defence to set-off the allegations and statements made by the present applicant in his written statement file in connection with election petition and that for filing such replication, leave of the Court is not required, inasmuch as there is exemption provided under Order VIII, Rule 9 in filing such replication.

[5] For ready reference the provisions of Order VIII, Rule 9 is reproduced hereunder :

“Subsequent pleadings. – No pleading subsequent to the written statement of a defendant other than by way of defence to set-off or counter-claim shall be presented except by the leave of the Court and upon such terms as the Court thinks fit; but the Court may at any time require a written statement or additional written statement from any of the parties and fix a time of not more than thirty days for presenting the same.”

[6] On careful examination of the above quoted provisions, this Court is of the considered view that certain exceptions have been provided under Order VIII, Rule 9 for filing pleadings subsequent to the filing of written statement of a defendant. In my considered view, when

filing a replication to the written statement filed by the defendant by way of defence to set-off or counter-claim the statements or allegations made by the defendant in his written statement, no leave of the Court is required and that filing of such replication can be allowed without insisting on the plaintiff to seek leave of the Court by filing a separate application or otherwise.

[7] In the present case, on examination of the said replication and the written statement, it is ascertained that the said replication had been filed by way of defence to set-off the allegations and statements made by the applicant in his written statement. Accordingly, this Court is of the considered view that there is no substance in the objection raised by the applicant in the present application. Since the replication has already been filed by the election petitioner, Registry is directed to place it in the relevant record.

[8] With the aforesaid direction, the present application is hereby dismissed.

JUDGE

Dhakeshori