

Serial No.01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WA No.5/2023

Date of Order: 09.06.2023

Philamon Mawrie Vs. State of Meghalaya & ors

Coram:

Hon'ble Mr. Justice Sanjib Banerjee, Chief Justice
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Appellant : Mr. V.G.K. Kynta, Sr.Adv with
Mr. H. Wanshong, Adv
Ms. C. Nongkhlaw, Adv

For the Respondent : Mr. S. Sen, Sr.GA
Ms. R. Colney, GA
Mr. N. Syngkon, Adv with
Ms. L. Phanjom, Adv for R/4&5

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

JUDGMENT: (per the Hon'ble, the Chief Justice) (Oral)

The parties have exchanged affidavits and it is evident that there is a serious dispute as to title pertaining to the plot of land in question.

2. Indeed, in the judgment and order impugned dated February 15, 2023, the Single Bench indicated that the matter had to be relegated to a civil suit to be adjudicated by the appropriate forum. However, the limited ground on which the appeal has been preferred is that the previous interim

order granted staying an order of the Deputy Commissioner, East Khasi Hills dated November 12, 2022 was vacated by the impugned order.

3. According to the respondents, the larger plot of land where there is a football playground and a basketball court, was gifted to the Shillong Municipal Board and, as such, public has access to such land. Local boys and girls use it as a playground and, at times, permission is granted by the Laitumkhrah Dorbar Shnong and the Deputy Commissioner for fairs and exhibitions to be held there. The respondents submit that such practice has gone on for years and, as such, till the civil dispute is decided, the Deputy Commissioner required the status quo to be maintained as far as usage of the ground was concerned. The respondents also point out that at the time that the order was passed by the Deputy Commissioner, there was no real civil dispute and it is only in course of the present proceedings that the appellant herein has sought to assert title over the land in question.

4. In view of the observations in the order impugned and it being apparent that there is a serious dispute between the appellant on the one hand and the respondent Nos.4 and 5 on the other as to the title to the relevant land in question, such matter cannot be conveniently addressed in proceedings under Article 226 of the Constitution by way of summary procedure and affidavit evidence.

5. Accordingly, notwithstanding the limited scope of the present appeal, the writ petition itself, WP (C) No.519 of 2022, is taken up for consideration and disposed of along with WA No.5 of 2023 by leaving the appellant free to institute a civil suit in respect of the land in question.

6. As to the order of the Deputy Commissioner dated November 12, 2022, status quo will be maintained in the sense that the land will be permitted to be used as a playground and, in the very exceptional case, subject to the previous permission of the Deputy Commissioner, the odd fair may be allowed, but this should not exceed more than two a year till such time that the dispute as to title is resolved by the appropriate forum. However, if the appellant does not institute an appropriate suit canvassing title in respect of the land in question within a period of three months from date, the effect of the order passed by the Deputy Commissioner on November 12, 2022 will remain undiluted.

7. There will be no order as to costs.

(W. Diengdoh)
Judge

(Sanjib Banerjee)
Chief Justice

Meghalaya

09.06.2023

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