

Serial No. 09
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

CRP No. 8 of 2021

Date of Decision: 06.09.2023

Shri. Paulus Jahnoh

Vs.

Shri. Piarsing Nongsiej & Anr.

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. P. Nongbri, Adv.

For the Respondent(s) : Mr. K. Sunar, Adv.

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| i) | Whether approved for reporting in Law journals etc.: | Yes/No |
| ii) | Whether approved for publication in press: | Yes/No |

JUDGMENT (ORAL)

1. Heard Mr. P. Nongbri, learned counsel for the petitioner who has submitted that this application has been filed under Rule 6 of the High Court of Meghalaya (Jurisdiction over District Council Court) Order, 2014 read with Article 227 of the Constitution of India.

2. The learned counsel has submitted that the respondent herein has instituted a Title Suit being No. 24 of 2013 along with an application under Order 39 Rule 1 and 2 read with Section 151 of the Code of Civil Procedure with a prayer for temporary injunction was filed before the Court of the

Presiding Officer, Subordinate District Council Court. The court vide order dated 11.05.2015 was pleased to grant temporary injunction to the respondent/plaintiff.

3. Being aggrieved by the said order dated 11.05.2015, the petitioner herein had approached the Appellate Court, that is, the learned Judge, District Council Court under Rule 28 and 29 of the United Khasi Jaintia Hills Autonomous District (Administration of Justice) Rules, 1953 read with Section 151 CPC being Misc. Civil Appeal No. 2 of 2015 assailing the said impugned injunction order. In the meantime, the learned Judge had recused himself from the matter and the appeal was then taken on board by Shri. E. Myrten, learned Additional Judge, District Council Court who has heard the parties and had reserved the judgment.

4. The learned counsel has further submitted that the petitioner was surprised to learned that the respondents herein had, in the meantime preferred an application before the learned Judge, District Council Court, Shillong being Misc. Case No. 5 of 2019 for transfer of the said Misc. Civil Appeal No. 2 of 2015.

5. It is the submission of the learned counsel that the petitioner was not informed of such development as no notice has been received by him as far as Misc. Case No. 5 of 2019 is concerned. In fact, what has come to the knowledge of the petitioner is that the said Misc. Civil Appeal No. 2 of 2015 on being taken up by the learned Judge, District Council Court, vide order dated 30.08.2019 the same was renumbered as Misc. Civil Appeal No. 4 of 2019 and notices was directed to be issued to the parties for their appearance. However, the petitioner maintains that such notice was not received by him but was received by his relative, which was not made known to him. In the

meantime, the matter was heard by the learned Judge, District Council Court and the impugned order dated 10.07.2020 was passed dismissing the appeal.

6. Being aggrieved by the said impugned order, the petitioner is before this Court assailing the same on the ground that the principle of natural justice has been violated inasmuch as he was not heard when the impugned order was passed. Secondly, the fact that the learned Judge, District Council Court had on an earlier occasion recused from hearing the matter, the self-same Judge at a later stage of the proceedings having called for the records and after the matter is heard resulting in the passing of the impugned order, the action of the learned Judge is therefore, questionable.

7. At this juncture, the learned counsel has submitted that the impugned order may be set aside and quashed and the matter may be remanded to the court of Shri. E. Myrten, learned Additional Judge, District Council Court with a direction to hear the parties and to pass necessary orders.

8. Mr. K. Sunar, learned counsel for the respondents has not made any objection or counter submission to what has been submitted by the learned counsel for the petitioner but has agreed that the appeal may be directed to be reheard by the learned Additional Judge, District Council Court, Shillong.

9. Upon hearing the counsels for the parties, this Court on perusal of the petition in hand is convinced that the petitioner was not given any opportunity of being heard when the hearing of Misc. Civil Appeal No. 4 of 2019 was taken up. Only on the ground that the principle of natural justice has been violated, the petitioner would have made out a case for interference by this Court.

10. The fact that the learned Judge, District Council Court having

expressed his reservation to take up the appeal initially, but had later taken up the said appeal after the same was already endorsed to another court of competent jurisdiction speaks volume about the conduct of the said court.

11. Be that as it may, since there is a breach of jurisdiction as far as judicial propriety is concerned as well as on the ground of failure to give adequate opportunity to the petitioner to be heard in the matter, an irregular order has been passed, the same is required to be set right by this Court.

12. Accordingly, this petition is hereby disposed of by the impugned order being set aside and quashed. The records of Misc. Civil Appeal No. 4 of 2019 is hereby directed to be placed before the court of Shri. E. Myrten, Additional Judge, District Council Court with a direction that the same may be heard afresh.

13. Parties herein are directed to appear before the said court on 05.10.2023. In the meantime, the status quo order passed will be maintained by the parties until further orders of the court of the competent jurisdiction.

14. Let copy of this order be issued upon the court of the Judge, District Council Court, Shillong for necessary compliance.

15. Petition disposed of. No costs.

Judge

Meghalaya
06.09.2023
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