

Serial No. 09
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

MC (FA) No. 4 of 2022 in
FA No. 1 of 2022

Date of Decision: 25.07.2023

Collector, Ri-Bhoi District, **Vs.** Shri Armstrong Syiem & Ors.
Nongpoh

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Appellant(s)/Applicant(s) : Mr. S. Sen, Sr. GA with
Ms. R. Colney, GA

For the Respondent(s) : Mr. V.K. Jindal, Sr. Adv. with
Ms. B. Jyrwa, Adv.

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

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

JUDGMENT AND ORDER (ORAL)

1. This application under Order 41 Rule 3 read with Section 151 CPC has been filed seeking amendment of the memo of appeal.

2. The grounds set forth that have necessitated the amendment as submitted is because of the fact that when the appeal was preferred,

only the Judgment and Order dated 17.03.2020, passed by the Reference Court (Court of the Special Judicial Officer, Ri-Bhoi District) at Nongpoh, was in existence.

3. An objection has been filed to the proposed amendments firstly on the ground that the amendment application has been filed under a wrong provision of law, inasmuch, it should have been preferred under Order 6 Rule-17. As such, it has been contended that Order 41 Rule 3 will have no application in the prayer made by the applicant/appellant, for amendment.

4. Further an objection has also been raised by Mr. V.K. Jindal, learned Senior counsel for the respondents, that with the inclusion of the Decree, the entire dimension of the appeal will change, inasmuch as, other grounds will have to be taken by the respondents in defense of the Decree, that has since been passed.

5. I have perused the application and also the objections made by the respondents. It is undisputed that at the time when the appeal was preferred, the Decree was not in existence as it was drawn-up subsequently. The amendments sought by this application are detailed in Para 1B to substitute by Para 1A therein that has appeared in the original memo of appeal. Similarly, Para II A is to substitute by Para II B. Further amendments sought is for adding additional Paragraphs in the memo of

appeal as Paragraph No. 7, which is given at Para-III. Amendment has also been proposed in the Prayer at Page-17, which is indicated at Para IV B.

6. It is noted that the amendments sought specifically refer to the Decree that has since been passed, and the fact that the applicant/appellant has sought to amend the memo appeal at the very initial stage, the same it will not affect the course of the proceedings, if the amendments are allowed.

7. Notwithstanding the objections that have raised, such as the wrong provision being used, as the amendments will have no material effect on the proceedings, the amendments as prayed are hereby allowed and are directed to be incorporated in the memo of appeal.

8. The applicant/appellant to take appropriate steps to file a recast memo of appeal. This Court also directs the applicant/appellant to include the names of all the substituted respondents, who have been duly substituted by the orders of this Court passed in various Misc. Cases.

9. Copy of the amended appeal be supplied to all the parties concerned. The applicant/appellant is allowed 3(three) weeks' time to complete the entire exercise.

10. This Misc. Case is allowed and is accordingly disposed of.

JUDGE

Meghalaya
25.07.2023
"V. Lyndem-PS"