

GAHC020002992023



**THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL
PRADESH)
KOHIMA BENCH**

Case No. : C. REVN/4/2023

LHOUSAKHOTO VIMERO
S/O LHOUNEI-O, R/O PFUCHAMA VILLAGE, KOHIMA NAGALAND

VERSUS

THE STATE OF NAGALAND AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY,
DEPARTMENT OF TRANSPORT AND COMMUNICATION,
NAGALAND KOHIMA

2) THE GENERAL MANAGER
NAGALAND STATE TRANSPORT, NAGALAND DIMAPUR

3) THE DEPUTY COMMISSIONER
KOHIMA NAGALAND

4) SHRI. KHRIELIEVIZO SELETSU
S/O LATE VILALIE SELETSU, R/O PFUCHAMA VILLAGE,
KOHIMA NAGALAND

Advocate for the Petitioner : R. IRALU, SR. ADV

Advocate for the Respondent : GOVT ADV NL

**BEFORE
HONBLE MR JUSTICE KARDAK ETE**

ORDER

Date : 19-09-2023

Heard Mr. L. Iralu, learned counsel for the petitioner and
Mr. K. Angami, learned State counsel for respondent No. 3. Also heard

Ms. K. Tsukru, learned counsel for respondent Nos. 1 & 2.

None appears for the respondent No. 4 despite receipt of service of notice by way of *dasti* for which the petitioner has filed an affidavit to that effect.

2. By filing this application under Article 227 of the Constitution of India, the petitioner has prayed for a direction to the learned Civil Judge (Senior Division), Kohima, to pass an order and dispose of CMC No. 52/2020 in Civil Suit No. 2/2017 which has been kept reserved since 27.04.2021.

3. The brief facts of the case is that the petitioner has filed a Civil Suit before the Court of Learned Civil Judge (Senior Division), Kohima, Nagaland, which has been registered and numbered as Civil Suit No. 2/2017. The suit has been filed for permanent injunction against the deponent/respondent Nos. 1 to 3 and not to interfere with the peaceful possession and occupation of the petitioner/plaintiff's land and house. As many as fourteen (14) issues have been framed by learned Trial Court on 06.11.2018. The petitioner/plaintiff was examined on 28.11.2019. The other eleven (11) witnesses, i.e five (5) plaintiff witnesses and six (6) defendant witnesses, are yet to be examined. After the examination of the petitioner an application was filed being CMC (Civil Miscs Case) No. 2/2020 on 27.01.2020 by the petitioner/plaintiff. The said application was filed by the plaintiff seeking to amend the reliefs prayed for in the plaint by adding the relief for a decree for declaration of title. Objection was filed by the respondent deponent Nos. 1, 2 & 3. The application CMC No. 2/2020 was heard by the learned Trial Court on 27.04.2021 and reserved for an order. According to the petitioner the learned Trial Court is yet to pass order in CMC No. 2/2020 despite listing the matter for pronouncement of order in the weekly causelist every month ever since the matter was reserved on 27.04.2021. Hence, this petition under Article 227 of the Constitution of India for direction to the learned Civil Judge (Senior Division), Kohima, to pass order and pronounce the same in CMC No. 2/2020 arising out of Civil Suit No. 2/2017 within a specified time frame.

4. Mr. L. Iralu, learned counsel for the petitioner submits that two (2) years have already lapsed ever since the order was reserved in CMC No. 2/2020 arising out of Civil Suit No. 2/2017 on 27.04.2021. He submits that the order not being pronounced in the application, the trial in the main suit is being unjustly delayed for more than two years. Therefore, he prays for directing the learned Civil Judge (Senior Division), Kohima, to pass order in CMC No. 2/2020 within the stipulated period of time.
5. Mr. L. Iralu, learned counsel for the petitioner has placed reliance on the judgment of the Supreme Court in the case of **Anil Rai vs. State of Bihar**, reported in **(2001) 7 SCC 318**.
6. Ms. K. Tsukru, learned counsel for respondent Nos. 1 & 2 and Mr. K. Angami, learned State counsel have no objection for such direction from this Court.
7. I have considered the submissions made by the learned counsel for the parties.
8. In the case of *Anil Rai (supra)* the Hon'ble Supreme Court has observed as follows:-

"8. The intention of the Legislature regarding pronouncement of judgments can be inferred from the provisions of the Code of Criminal Procedure. Sub-section (1) of Section 353 of the Code provides that the judgment in every trial in any criminal court of original jurisdiction, shall be pronounced in open court immediately after the conclusion of the trial or on some subsequent time for which due notice shall be given to the parties or their pleaders. The words "some subsequent time" mentioned in Section 353 contemplates the passing of the judgment without undue delay, as delay in the pronouncement of judgment is opposed to the principle of law. Such subsequent time can at the most be stretched to a period of six weeks and not beyond that time in any case. The pronouncement of judgments in the civil case should not be permitted to go beyond two months.

9. It is true, that for the High Courts, no period for pronouncement of judgment is contemplated either under the Code of Civil Procedure or the Criminal Procedure Code, but as the pronouncement of the judgment is a part of justice dispensation system, it has to be without delay. In a country like ours where people consider the Judges only second to God, efforts be made to strengthen that belief of the common man. Delay in disposal of the cases facilitates the people to raise eye-brows, some time genuinely which, if not checked, may shake the confidence of the people in the judicial system. A time has come when the judiciary itself has to assert for preserving its stature,

respect and regards for the attainment of the Rule of Law. For the fault of a few, the glorious and glittering name of the judiciary cannot be permitted to be made ugly. It is the policy and purpose of law, to have speedy justice for which efforts are required to be made to come to the expectation of the society of ensuring speedy, untainted and unpolluted justice.

10. Under the prevalent circumstances in some of the High Courts, I feel it appropriate to provide some guidelines regarding the pronouncement of judgments which, I am sure, shall be followed by all concerned, being the mandate of this Court. Such guidelines, as for present, are as under:

(i) The Chief Justices of the High Courts may issue appropriate directions to the Registry that in case where the judgment is reserved and is pronounced later, a column be added in the judgment where, on the first page, after the cause-title, date of reserving the judgment and date of pronouncing it be separately mentioned by the court officer concerned.

(ii) That Chief Justice of the High Courts, on their administrative side, should direct the Court Officers/ Readers of the various Benches in the High Courts to furnish every month the list of cases in the matters where the judgments reserved are not pronounced within the period of that months.

(iii) On noticing that after conclusion of the arguments the judgment is not pronounced within a period of two months, the concerned Chief Justice shall draw the attention of the Bench concerned to the pending matter. The Chief Justice may also see the desirability of circulating the statement of such cases in which the judgments have not been pronounced within a period of six weeks from the date of conclusion of the arguments amongst the Judges of the High Court for their information. Such communication be conveyed as confidential and in a sealed cover.

(iv) Where a judgment is not pronounced within three months, from the date of reserving it, any of the parties in the case is permitted to file an application in the High Court with prayer for early judgment. Such application, as and when filed, shall be listed before the Bench concerned within two days excluding the intervening holidays.

(v) If the judgment, for any reason, is not pronounced within a period of six months, any of the parties of the said lis shall be entitled to move an application before the Chief Justice of the High Court with a prayer to withdraw the said case and to make it over to any other Bench for fresh arguments. It is open to the Chief Justice to grant the said prayer or to pass any other order as deems fit in the circumstances."

9. Order XX of Code of Civil Procedure, 1908, deals with Judgment and Decree which is apt to quote herein below:-

"1. Judgment when pronounced.-(1) The Court, after the

case has been heard, shall pronounce judgment in an open Court, either at once, or as soon thereafter as may be practicable and when the judgment is to be pronounced on some future day, the Court shall fix a day for that purpose, of which due notice shall be given to the parties or their pleaders.

Provided that where the judgment is not pronounced at once, every endeavour shall be made by the Court to pronounce the judgment within thirty days from the date on which the hearing of the case was concluded but, where it is not practicable so to do on the ground of the exceptional and extraordinary circumstances of the case, the Court shall fix a future day for the pronouncement of the judgment, and such day shall not ordinarily be a day beyond sixty days from the date on which the hearing of the case was concluded, and due notice of the day so fixed shall be given to the parties or their pleaders.

(2). Where a written judgment is to be pronounced, it shall be sufficient if the findings of the Court on each issue and the final order passed in the case are read out and it shall not be necessary for the Court to read out the whole judgment.

(3). The judgment may be pronounced by dictation in open Court to a shorthand writer if the Judge is specially empowered by the High Court in this behalf:

Provided that, where the judgment is pronounced by dictation in open Court, the transcript of the judgment so pronounced shall, after making such correction therein as may be necessary, be signed by the Judge, bear the date on which it was pronounced, and form a part of the record."

10. Having considered the submissions and the observations and guidelines by the Hon'ble Supreme Court as well as the provisions of Order XX Rule 1, 2 & 3, this Court is of the considered view that the learned Civil Judge (Senior Division), Kohima, is under obligation to pronounce the judgment and order within the stipulated period. In view of the above, it is directed that the learned Civil Judge (Senior Division), Kohima, shall pronounce the order in CMC 2/2020 arising out of Civil Suit No. 2/207 which has been kept reserved since 27.04.2021 within one month from today.

11. Accordingly, this petition is allowed and disposed of.

12. Send back the LCR.

Sd/-
JUDGE

Comparing Assistant