KABOR AMBAM SAPAN A CHANU Digitally signed by KABORAMBAM SAPANA CHANU Date: 2024.04.24 14:31:43 -07'00'

IN THE HIGH COURT OF MANIPUR
AT IMPHAL

CRP (C.R.P. Art. 227) No. 12 of 2017

1. The Autonomous District Council Sanapati, Govt. of Manipur represented by its Chief Executive Officer (C.E.O.), Autonomous District Council, Senapati.

..... ***Petitioner***

Vs.

1. Dr. M.B. Thoho, aged about 54 years S/o Mr. Baosii presently a resident of Vakho Village and a permanent resident of Koide Village P.O. Karong P.S. Senapati, Senapati Distict, Manipur. ***.....Principal Respondent***
2. The State of Manipur represented by the Commissioner/Secretary (Hills), Government of Manipur.
3. The Deputy Commissioner, Senapati, Government of Manipur.
4. The District Council Poulea Village Authority, represented by its Chairman, Senpati District, Manipur.
5. The Khabung Karong Village, represented by its Chairman, Senapati District, Manipur.

.....Proforma Respondents

B E F O R E
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

For the Petitioner	:	Mr. N. Umakanta, Adv.
For the respondent No. 1	:	Mr. Serto T Kom, Adv.
For the respondent Nos. 2 & 3	:	S. Nepolean, GA
Date of Hearing	:	17.04.2024
Date of Judgment & Order (Oral)	:	17.04.2024.

JUDGMENT & ORDER
(ORAL)

[1] Heard Mr. N. Umakanta, learned counsel appearing for the petitioner, Mr. Serto T Kom, learned counsel appearing for the respondent No. 1 and Mr. S. Nepolean, learned Government Advocate appearing for the respondents No. 2 & 3.

None appeared for the respondents No. 4 & 5 despite service of notice.

[2] The present petition had been filed seeking, inter-alia, the following reliefs:-

(i) to quash and set aside the entire suit and proceeding including the ancillary matters being taken up by the learned Civil Judge, Senior Division, Senapati in OS No. 4 of 2016 pending before it;
(ii) to quash and vacate all the interlocutory orders including order dated 08.08.2016 passed by the learned Civil Judge, Senior Division, Senapati in Judl. Misc. Case No. 8 of 2016 arising out of OS No. 4 of 2016.

[3] It is the case of the petitioner that the respondent No. 1 filed Original Suit No. 4 of 2016 before the Civil Judge, Senior Division, Senapati District praying for passing a decree for declaration that the respondent No. 1/plaintiff is the owner and title holder of the suit land by way of possession and through an unregistered sale deed as described in schedule-A against the claim of the defendant No. 1 (The State of Manipur) and also to pass an order for permanent injunction against the defendants No. 1, 2 & 3 restraining them and their men, previse and agents from entering and demolishing the structures within the suit land. The defendants No. 1, 2 & 3 in the said Original Suit are (1) the State of Manipur represented by the Commissioner/ Secretary (Hills), Government of Manipur, (2) the Deputy Commissioner, Senapati, Government of Manipur and (3) the Autonomous District Council Senapati represented by the CEO, ADC, Senapati, Manipur respectively. It is the case of the petitioner that in the plaint of the said suit, allegations and claims are raised against the said defendants No. 1, 2 & 3 and the relief sought for in the said suit is also against the defendants No. 1, 2 & 3.

[4] It has been submitted on behalf of the present petitioner that as the suit and relief sought therein are against the Government and the officials/officers of the Government, the respondent No. 1/plaintiff filed an application which was registered as Judl. Misc. Case No. 7 of 2016 praying for dispensing from servicing notice to the defendants in the suit as required under section 80 (1) of the CPC. The said application was rejected by the Trial Court by an order dated 29.02.2016 passed in the said Judl. Misc. Case No. 7 of 2016 (reference O.S. No. 4 of 2016).

It is the case of the petitioner that once the application seeking leave for dispensing servicing of notice as required under section 80 (1) of the CPC has been rejected, the plaint in the OS No. 4 of 2016 ought to have been returned back to the plaintiff for presentation to it after complying with the requirements of section 80 (1) as provided under the proviso to section 80 (2) of the CPC.

[5] Mr. N. Umakanta, learned counsel appearing for the petitioner submitted that once the application seeking leave for dispensing servicing of notice as required under section 80 (1) of the CPC had been rejected, the Trial Court has no jurisdiction or authority to entertain the suit, however, in the present case, the Trial Court after dismissing the said leave application proceeded with the Original Suit and even passed a temporary injunction on 08.08.2016 against the defendants No. 1, 2 & 3 in Judl. Misc. Case No. 8 of 2016 (OS No. 4 of 2016). According to the learned counsel, such proceedings taken up by the Trial Court in connection with the said original suit is without any jurisdiction and contrary to the provisions of law and that the Trial Court had exceeded its jurisdiction. The learned counsel accordingly submitted that the proceeding of the said Original Suit cannot continue and the same ought to be set aside including all the interlocutory order passed therein and that the Trial Court be directed to return the plaint to the plaintiff as provided under the proviso to section 80 (2) of the CPC.

[6] In support of his contention, the learned counsel appearing for the petitioner cited the judgment rendered by the Hon'ble Apex Court in the case of ***"Bajaj Hindustan Sugar & Industries Ltd. vs. Balrampur Chini Mills Ltd. and Ors."*** reported in **(2007) 9 SCC 43** wherein the Hon'ble Apex Court held as under:-

> *"**30**. There can be no dispute that once the plaint was returned, there was no suit pending before the trial Judge. Without the suit being registered the question of considering the application for interim orders also did not arise. The provisions of Section 80(1) of the Code make it very clear that except in the manner provided in sub-section (2), no suit can be instituted against the Government and its authorities in respect of any act purported to have been done by such authority in its official capacity until the expiration of two months after notice in writing has been delivered to or left at the office of the*

authorities named therein. Admittedly, Defendants 1-4 in the suit, were the Union of India and its authorities and without notice under Section 80(1) of the Code, the suit could not have been instituted against them without compliance with the provisions of Section 80(2) of the Code. The appellants were fully aware of the said provision and accordingly, an application was made under Section 80(2) of the Code for grant of such leave, which was refused. Section 80(2) provides as follows:

"80. (2) A suit to obtain an urgent or immediate relief against the Government (including the Government of the State of Jammu and Kashmir) or any public officer in respect of any act purporting to be done by such public officer in his official capacity, may be instituted, with the leave of the court, without serving any notice as required by sub-section (1); but the court shall not grant relief in the suit, whether interim or otherwise, except after giving to the Government or public officer, as the case may be, a reasonable opportunity of showing cause in respect of the relief prayed for in the suit:

Provided that the court shall, if it is satisfied, after hearing the parties, that no urgent or immediate relief need be granted in the suit, return the plaint for presentation to it after complying with the requirements of sub section (1)."

*"**31**. From the above, it would be evident that a suit may be filed against the Government or a public officer without serving notice as required by subsection (1) with the leave of the court. When such leave is refused, the question of institution of the suit does not arise and accordingly, no interim relief could also be granted at that stage."*

[7] Mr. S. Nepolean, learned senior Government Advocate appearing for the respondents No. 2 & 3 also endorsed the submission advanced by the learned counsel appearing for the petitioner. The learned senior counsel also cited the following case laws:-

(i) **(2006) 12 SCC 119** ***"State of A.P. and Others vs. Pioneer Builders, A.P."***

wherein, it has been laid down as under:-

*"**14.** From a bare reading of sub-section (1) of Section 80, it is plain that subject to what is provided in sub-section (2) thereof, no suit can be filed against the Government or a public officer unless requisite notice under the said provision has been served on such Government or public officer, as the case may be. It is well settled that before the amendment of Section 80 the provisions of unamended Section 80 admitted of no implications and exceptions whatsoever and are express, explicit and mandatory. The section imposes a statutory and unqualified obligation upon the court and in the absence of compliance with Section 80, the suit is not maintainable. (See Bhagchand Dagadusa v. Secy. of State for India in Council; Sawai Singhai Nirmal Chand v. Union of India and Bihari Chowdhary v. State of Bihar)The service of notice under Section 80 is, thus, a condition precedent for the institution of a suit against the Government or a public officer. The legislative intent of the section is to give the Government sufficient notice of the suit,*

which is proposed to be filed against it so that it may reconsider the decision and decide for itself whether the claim made could be accepted or not. As observed in Bihari Chowdhary the object of the section is the advancement of justice and the securing of public good by avoidance of unnecessary litigation.

*"**16.** Thus, in conformity therewith, by the Code of Civil Procedure (Amendment) Act, 1976 the existing Section 80 was renumbered as Section 80(1) and sub-sections (2) and (3) were inserted with effect from 1-2-1977 Sub-section (2) carved out an exception to the mandatory rule that no suit can be filed against the Government or a public officer unless two months' notice has been served on such Government or public officer. The provision mitigates the rigours of sub-section (1) and empowers the court to allow a person to institute a suit without serving any notice under sub-section (1) in case it finds that the suit is for the purpose of obtaining an urgent and immediate relief against the Government or a public officer. But, the court cannot grant relief under the sub-section unless a reasonable opportunity is given to the Government or public officer to show cause in respect of the relief prayed for. The proviso to the said sub-section enjoins that in case the court is of the opinion that no urgent and immediate relief should be granted, it shall return the plaint for presentation to it after complying with the requirements of sub-section (1). Sub-section (3), though not relevant for the present case, seeks to bring in the rule of substantial compliance and tends to relax the rigour of sub-section (1).*

*"**18.** Having regard to the legislative intent noticed above, it needs little emphasis that the power conferred on the court under sub-section (2) is to avoid genuine hardship and is, therefore, coupled with a duty to grant leave to institute a suit without complying with the requirements of sub-section (1) thereof, bearing in mind only the urgency of the relief prayed for and not the merits of the case. More so, when want of notice under sub-section (1) is also made good by providing that even in urgent matters relief under this provision shall not be granted without giving a reasonable opportunity to the Government or a public officer to show cause in respect of the relief prayed for. The provision also mandates that if the court is of the opinion that no urgent or immediate relief deserves to be granted it should return the plaint for presentation after complying with the requirements contemplated in sub-section (1)."*

(ii) **(2013) 10 SCC 178** ***"State of Kerala and Others v. Sudhir Kumar Sharma and Other"*** wherein, it has been laid down as under:-

*"**19**. It is an admitted fact that no order had been passed on the application filed under Section 80(2) CPC whereby leave of the court had been sought for filing the suit without complying with the provisions of Section 80(1) CPC. In our opinion, a suit filed without compliance with Section 80(1) cannot be regularised simply by filing an application under Section 80(2) CPC. Upon filing an application under Section 80(2) CPC, the court is supposed to consider the facts and look at the circumstances in which the leave was sought for filing the suit without issuance of notice under Section 80(1) to the government authorities concerned. For the purpose of determining whether*

such an application should be granted, the court is supposed to give hearing to both the sides and consider the nature of the suit and urgency of the matter before taking a final decision. By mere filing of an application, by no stretch of imagination can it be presumed that the application is granted. If such a presumption is accepted, it would mean that the court has not to take any action in pursuance of such an application and if the court has not to take any action, then we failed to understand as to why such an application should be filed.

*"**20**. It is an admitted fact that no order had been passed on the application filed under Section 80(2) CPC. Till a final order is passed granting the said application, in our opinion, the irregularity in filing of the suit continues. If ultimately the application is rejected, the plaint is to be returned and in that event the application filed on behalf of the appellants under Order 7 Rule 11 CPC is to be granted. If the application filed under Section 80(2) is ultimately granted, the objection with regard to non-issuance of notice under Section 80(1) CPC cannot be raised and in that event the suit would not fail on account of non-issuance of notice under Section 80(1) CPC.*

*"**21**. We reiterate that till the application filed under Section 80(2) CPC is finally heard and decided, it cannot be known whether the suit filed without issuance of notice under Section 80(1) CPC was justifiable. According to the provisions of Section 80(2) CPC, the court has to be satisfied after hearing the parties that there was some grave urgency which required some urgent relief and therefore, the plaintiff was constrained to file a suit without issuance of notice under Section 80(1) CPC. Till arguments are advanced on behalf of the plaintiff with regard to urgency in the matter and till the trial court is satisfied with regard to the urgency or requirement of immediate relief in the suit, the court normally would not grant an application under Section 80(2) CPC. We, therefore, come to the conclusion that mere filing of an application under Section 80(2) CPC would not mean that the said application was granted by the trial court."*

Relying on the aforesaid judgments of the Apex Court, it has been submitted by the learned senior Government Advocate that the Trial Court has acted in excess of its jurisdiction and contrary to the well settled provisions of law and that the present petition deserves to be allowed by quashing and setting aside the proceedings taken up by the Trial Court in connection with the aforesaid original suit and all the interlocutory order passed therein and connected applications.

[8] Mr. Serto T Kom, learned counsel appearing for the respondent No. 1/plaintiff submitted that the Autonomous District Council (ADC), Senapati, the petitioner herein, is neither a Government nor a public servant and as such, the service of notice as provided under section 80 (1) of the CPC is not required and

the aforesaid suit can be proceeded against the Autonomous District Council (ADC) and that the suit cannot be rejected in its entirety. In support of his contention, the learned counsel cited the following case laws:-

(i). **1989 SCC Online Guj 18** ***"Natvarlal Khodidas Parmar, Jamnagar vs District Panchayat, Jamnagar."***

> *"**5**. Government is defined in Section 23 of the General Clauses Act, 1897 which reads as under:-*
>
> *"(23) "Government" or "the Government" shall include both the Central Government and any State Government."*
>
> *Section 32 of the Bombay Civil Courts Act, 1869 inter alia provides that no subordinate court other than the court of Civil Judge (S.D.) and no Court of Small Causes shall receive or register any suit in which the Government or any officer of the Government in his official capacity is a party. Such suits are required to be entertained and decided only by the Court of Civil Judge (S.D.). If one reads S. 32 of the Bombay Civil Courts Act, 1869 it is evident that by this provision the jurisdiction of the Court of Civil Judge (J.D.) is not excluded as far as the suits against local authorities are concerned. It should also be noted that over and above the local and other authorities there may be institutions or corporate bodies which may be falling within the definition of 'State' occurring in Art. 12 of the Constitution of India. This point is now very well settled by the decisions of the Supreme Court in the case of Sabhajit Tewari v. Union of India, reported in AIR 1975 SC 1329 and in the case of Sukhdev Singh v. Bhagatram Sardar Singh Raghuvanshi, reported in AIR 1975 SC 1331.*
>
> *"**6**. Simply because an authority is 'State' within the meaning of Art. 12 of the Constitution, it does not become Government. The learned District Judge was clearly wrong in holding that the Panchayat would be Government. There is a vital difference between Government and local authority. Both may be, and in fact are, 'State' within the meaning of Art. 12 of the Constitution of India. But therefore they are not synonymous or identically same. As far as their legal identity is concerned both are separate legal entities."*

(ii). **1987 SCC Online Ker 4** ***"V. Padmanabhan Nair vs. Kerala State Electricity Board."***

> ***"10.** A statutory body - whether it be Electricity Board or the Food Corporation or Urban Development Corporation or any of that category - may be an instrumentality of the State within the meaning of Art. 12 of the Constitution. It nevertheless would not answer the description of Government as understood in law and as it is understood in the context of S. 80 C.P.C.*
>
> *"**11**. The precise question had been considered by the Karnataka High Court in Shivamurty v. Chairman, K.E. Board, ILR (1980) 1 Kant 686. The scheme of the Electricity Supply Act and the legal principles applicable have been surveyed in that decision. The ultimate finding is that the Electricity Board is*

not a Government and its officers are not public officers, in the context of S. 80, C.P.C. The neat analysis of the legal and constitutional provisions as attempted by the learned Judge has my unreserved approval. The conclusion is:

"...in spite of the control and supervision exercised by the State Government on the funds and the activities of the Board, it cannot be held to constitute a 'Government' for the purpose of S. 80 of the C.P. Code."

***"12.** The C.P.C. does maintain the distinction between Government and State in its provisions. O. 27 refers to suits by or against Government or public officers in their official capacity. Rule 8B gives the definition of the Government and Government Pleader. That is not particularly helpful inasmuch as it only brings out the distinction between the Central Government and the State Government and the cause of action against the one or the other. Ss. 84 to 87B contain references to State. S. 79 specifically states that in a suit by or against the Government, the authority to be named as plaintiff or defendant, as the case may be, shall be in the case of a suit by or against a State*

***...**.....*

Page: 89

Government, the State. To describe the Kerala State Electricity Board as the State in a suit filed against it, would be totally inapposite. Equally jarring would be the position when a Government Pleader could take notice or act on behalf of the Electricity Board, pressing into service the provisions of O. 27 dealing with suit by or against the State Government.

***"13.** The question has been discussed in the context of other statutory bodies like the Urban Development Corporation and the like. The High Courts of Patna, Punjab and Haryana and Karnataka have taken the view that such authorities would not be 'Government within the meaning of S. 80 C.P.C. The reasoning in those decisions will apply with equal force to the present case."*

(iii) **(2016) 2 SCC 200 "*City Municipal Council Bhalki vs. Gurappa (Dead) By Legal Representatives.*"**

*"**25**. At this stage, we also direct our attention to the contention raised by Mr Basava Prabhu S. Patil, learned Senior Counsel appearing on behalf of the appellant Municipality that the suit in OS No. 39 of 1993 was not maintainable as the notice was issued under Section 80 CPC in suit OS No. 255 of 1984 could not be said to be sufficient notice for the institution of the suit in OS No. 39 of 1993. We cannot agree with the said contention. The High Court of Karnataka in the second appeal had dismissed the contention on the ground that the notice issued in the suit OS No. 255 of 1984 can be said to be constructive notice. The High Court considered that the object of the section is the advancement of justice and securing of public good.*

*"**26**. In our opinion, this issue does not arise at all, as a municipal council is not a public officer, and no notice is necessary when a suit is filed against a municipality. Thus, the question of sufficiency of notice under Section 80 CPC does not arise at all. Further, the issuance of notice under Section 284(1) of the Karnataka Municipalities Act, 1964 also does not arise for the reason that the dispute between the parties in the suit in OS No. 39 of 1993 does not*

attract the above provision of the Act and therefore, we need not advert to and answer the above contention."

(iv) (2018) 11 SCC 780 ***"Sejal Glass Limited vs. Navilan Merchants Private Limited."***

> *"**8**. We are afraid that this is a misreading of the Madras High Court judgment. It was only on the peculiar facts of that case that want of Section 80 CPC against one defendant led to the rejection of the plaint as a whole, as no cause of action would remain against the other defendants. This cannot elevate itself into a rule of law, that once a part of a plaint cannot proceed, the other part also cannot proceed, and the plaint as a whole must be rejected under Order 7 Rule 11. In all such cases, if the plaint survives against certain defendants and/or properties, Order 7 Rule 11 will have no application at all, and the suit as a whole must then proceed to trial."*

[9] Another ground submitted by the learned counsel appearing for the respondent No. 1 is that there is an effective and alternative remedy available to the petitioner either by way of appeal under order 43 rule 1 (r) of the CPC or under order 7 rule 11 of the CPC for rejection of plaint and as such, the present petition under article 227 of the constitution of India is not maintainable.

In support of his contention, the learned counsel relied on the judgment rendered by the Hon'ble Apex Court in the case of "***Miss Maneck Gustedji Burjarji vs Sarafazali Nawabali Mirza"*** reported in **(1977) 1 SCC 227** wherein, it has been held as under:-

> *"**4**. The respondent thereafter took out a notice of motion in the City Civil Court suit on March 4, 1975 praying for stay of that suit under Section 10 of the Civil Procedure Code on the ground that the earlier suit raising the same issue was pending in the Small Cause Court. The City Civil Court rejected the application for stay of the suit and dismissed the notice of motion on 2nd May 1975. This was followed by an appeal, but the appeal was also dismissed by the High Court on 8th July 1975. The City Civil Court thereafter proceeded with the hearing of the suit and ultimately by a judgment dated 2nd August 1975 decreed the suit in favour of the appellant. The City Civil Court took the view that the respondent was a paying guest of the appellant in respect of a portion of the flat and since the period of the agreement under which the respondent was given that portion of the flat as a paying guest expired on 30th March 1973, the respondent was not entitled to continue to occupy or utilise the said portion of the flat and since paying guest is excluded from the operation of Section 15A, the respondent was not entitled to protection under that section. The City Civil Court, however, granted three months' time to the respondent to prefer an appeal, if he so wished.*

*"**5**. The respondent could have preferred an appeal to the High Court against the decree passed by the City Civil Court but instead of doing so, the respondent filed Special Civil Application No. 2936 of 1975 in the High Court under Article 227 of the Constitution for quashing and setting aside the decree of the City Civil Court. The main ground on which relief was sought by the respondent was that the City Civil Court had no jurisdiction to try the suit and in passing the decree for eviction, the City Civil Court had usurped the jurisdiction of the Small Causes Court. Immediately on filing the Special Civil Application, the respondent obtained an ex parte order from the Vacation Judge staying the operation of the decree of the City Civil Court, but on application made on behalf of the appellant, the ex parte order was vacated by the Vacation Judge on 8th November 1975. The Vacation Judge pointed out that the Special Civil Application was not maintainable since an adequate alternative legal remedy by way of appeal was open to the respondent. The Special Civil Application thereafter came up for admission before Vaidya, J., and the learned Judge took it up for final hearing within seven days and disposed it of by a judgment dated 18th November 1975.The learned Judge curiously enough did not interfere with the decree passed by the City Civil Court but merely directed stay of execution of that decree until the earlier suit filed by the respondent against the appellant was decided by the Small Cause Court and observed that it should be open to the Small Cause Court to arrive at its own conclusion without being in any, way bound by the decision of the City Civil Court, or in other words, the decision of the City Civil Court should not be regarded as binding on the parties in the adjudication of the case before the Small Causes Court. The order appeared to us to be so patently erroneous that we promptly granted special leave to the appellant and fixed an early date for the hearing of the appeal.*

*"**6**. It is very difficult to appreciate the reasoning behind the order made by the High Court. It is to say the least an extraordinary order which flies in the face of law and judicial procedure. The respondent had clearly a legal remedy available to him by way of an appeal against the decree of the City Civil Court and this remedy was not only adequate but more comprehensive than the one under Article 227 of the Constitution. Even so, for some inexplicable reasons, the respondent chose to prefer a Special Civil Application under Article 227 of the Constitution and Vaidya, J., entertained the Special Civil Application and granted relief to the respondent casting to the winds the well settled principle that the High Court does not ordinarily, in exercise of its discretion, entertain a special civil application under Article 227 of the Constitution where an adequate alternative legal remedy is available to the Applicant. It is true that this principle is not rigid and inflexible and there can be extraordinary circumstances where despite the existence of an alternative legal remedy, the High Court may interfere in favour of an applicant, but this was certainly not one of such extraordinary cases. It is indeed difficult to see how the learned Judge could entertain a Special Civil Application against a decree passed by a subordinate court when the procedural law allows an appeal against it and that appeal lies to the High Court itself. It must be realised that the jurisdiction under Article 227 of the Constitution is an extraordinary jurisdiction which is to be exercised sparingly and in appropriate cases and it is not to be exercised as if it were an appellate jurisdiction or as*

if it gave unfettered and unrestricted power to the High Court to do whatever it liked. That apart, it is interesting to note that the order passed by the learned Judge was not an interlocutory order but a final order disposing of the special civil application and by that order the learned Judge did not set aside the decree passed by the City Civil Court, but merely directed stay of its execution pending the disposal of the Small Causes Court suit. It defies one's comprehension as to how such an order could be made by the learned Judge. It is also difficult to see how the learned Judge could give a direction that the decision of the City Civil Court on the issue whether the respondent was a paying guest would not bind the parties in the adjudication of the Small Cause Court suit. The question whether the parties in the Small Cause Court suit would be bound by the decision of the City Civil Court would be a question which would arise for determination in the Small Causes Court suit and the Small Cause Court would have to determine it in deciding the suit before it. If the decision of the Small Cause Court is erroneous, the aggrieved party would have a right to file an appeal against it and the appellate court would then consider this question and adjudicate upon it. But we fail to understand how the learned Judge could, without any decision having been given by the Small Causes Court and such decision having been brought up before him in appeal or revision, enter upon a consideration of this question and pronounce upon it. The order passed by the learned Judge was clearly erroneous and it must be quashed and set aside and the Special Civil Application must be dismissed. We may make it clear that whenever the Small Cause Court hears the suit it will not take into account any observations made by the learned Judge in the impugned judgment in regard to the question whether the decision of the City Civil Court is binding or not and it will proceed to decide the suit before it in the light of what it considers to be the correct legal position."

The learned counsel appearing for the respondent No. 1 vehemently submitted that in view of the principle of law laid down by the High Court and the Hon'ble Apex Court cited hereinabove, the present revision petition deserves to be dismissed outright as being not maintainable.

[10] I have heard the submission advanced by the learned counsel appearing for the parties at length and also carefully examined all the materials available on record. The only issue raised before this Court for adjudication is whether the Trial Court has exceeded its jurisdiction or acted contrary to the provision of law in entertaining the aforesaid Original Suit No. 4 of 2016 and passing interlocutory orders in the connected applications even after rejection of the application filed by the respondent No. 1/plaintiff seeking leave for dispensing with the requirement of issuing notice under section 80 (1) of the CPC. On examination of the pleadings

made in the plaint and the relief sought for therein, which has been reproduced hereinabove, there is no escaping from the fact that the pleadings/allegations and reliefs sought for by the respondent No. 1/plaintiff in the said Original Suit No. 4 of 2016 is mainly against the State of Manipur, the Deputy Commissioner, Senapati and the Autonomous District Council (ADC), Senapati. As the suit is instituted against the Government and against the public officer, Section 80 (1) of the CPC mandates that service of notice and waiting expiration of 2 (two) months period from the date of serving such notice is required before filing the same.

[11] In the present case, the respondent No. 1/plaintiff filed an application registered as Judl. Misc. Case No. 7 of 2016 before the Trial Court as provided under section 80 (2) of the CPC praying for dispensing servicing of notice as required under section 80 (1) of the CPC, however, the said application was rejected by the Trial Court by an order dated 29.02.2016 on the ground that there was no sufficient ground for dispensing with the service of notice to the opposite parties/defendants.

In my considered view after rejection of the said application, the only course left open to the Trial Court was to return the plaint to the plaintiff for presentation to it after complying with the requirements of section 80 (1) of the CPC. However, quite surprisingly, even after rejection of the said application, the Trial Court entertained and proceeded with the said original Suit and even passed interlocutory orders in the nature of temporary injunction against the defendants No. 1, 2 & 3 in the said suit which, in my considered view, is not permissible in law, especially in view of the provisions of section 80 (1) & (2) of the CPC and the principles of law down by the Hon'ble Apex Court in the case laws cited hereinabove by the learned counsel appearing for the petitioner and the learned Government Advocate.

[12] I have carefully perused all the judgments cited by the learned counsel appearing for the respondent No. 1 and this Court is of the considered view that the said case laws have no relevance in the fact and circumstances of the present

case. Even if, it is accepted that the Autonomous District Council (ADC), Senapati is neither a Government nor a public servant, the plaint in the present form cannot be entertained, inasmuch as, the main relief and allegations sought for by the respondent No. 1/plaintiff is against the State of Manipur and the officer/public servant of the Government. In my considered view without rectifying such pleadings/parties or relief sought for in the plaint, the Trial Court ought not to have entertained and proceeded with the said plaint.

[13] Taking into consideration, the totality of the facts and circumstances of the present case and the principle of law laid down by the Hon'ble Apex Court in the case laws cited by the learned counsel appearing for the petitioner and the Government Advocate and also taking into consideration the provisions of section 80 (1) & (2) of the CPC, this Court is of the view that the Trial Court has acted beyond its jurisdiction and contrary to the well-established principle of law. In the result, the present petition is allowed by quashing and setting aside all the proceedings in connection with the Original Suit No. 4 of 2016 and all the interlocutory orders passed therein and connected applications including the order dated 08.08.2016 passed by the Trial Court in Judl. Misc. Case No. 8 of 2016. The Court of Civil Judge, Senior Division, Senapati is further directed to return the plaint to the plaintiff for taking appropriate action in accordance with law.

With the aforesaid direction, the present petition is disposed of.

Parties are to bear their own costs.

JUDGE

FR/NFR

Sapana