

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

CRP(C.R.P.Art.227) No. 38 of 2023

Wangkhem Wiliyas Singh

Vs.

Oinam Ibomcha Singh & 3 ors.

... Petitioner/s

... Respondent/s

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

08-05-2024

Heard Mr. S. Abung, learned counsel appearing for the petitioner and Mr. T. Momo, learned counsel appearing for the respondents.

[2] The present petition has been filed assailing the order dated 26-04-2023 passed by the Court of the Civil Judge (Jr. Divn.), Imphal West-I in Judl. Misc. Case No. 237 of 2022 (Ref. OS No. 54 of 2021). By the said order, the Trial Court has rejected the application filed by the petitioner seeking for amendment of the complaints in the said Original Suit as proposed in the said amendment application.

[3] It has been submitted by the learned counsel appearing for the petitioner that no issue has been framed and the trial of the said suit has not yet been started. The learned counsel strenuously submitted that unless the amendment as proposed in the said amendment application is allowed, a great prejudice will be caused to the plaintiff at the time of deciding the said suit by the Trial court. The learned counsel accordingly, prays for setting aside the impugned order dated 26-04-2023 passed by

the Trial Court and to allow the amendment application filed by the present petitioner.

[4] Mr. T. Momo, learned counsel appearing for the respondents submitted that if this Court is of the considered view that the order of Trial Court is cryptic and no sufficient reason has been given, this Court may set aside the impugned order and remand back the matter to the Trial Court for deciding the amendment application afresh so as to protect the interest of the present petitioner.

[6] I have heard the submission advanced by the learned counsel appearing for the parties and also perused all the materials available on record. It is undisputed by the learned counsel appearing for the parties that the trial of the O.S. No. 54 of 2021 has not yet been started and that no issue has been framed as yet. The amendment sought for in the said amendment application is basically for bringing on record the allegation that the defendant No. 1 has encroached upon the land not belonging to him and that unless such amendment and consequential relief as proposed in the amendment application is not brought on record, this Court is of the considered view that the petitioner/plaintiff will be greatly prejudice at the time of trial of the said Original Suit.

[7] In any case, on perusal of the reason given by the Trial court, this Court is of the considered view that the Trial Court has completely overlooked the provisions under order VI Rule 17 of the CPC

and the settled principle of law laid down by the Hon'ble Apex Court and by this Court that amendment of the pleadings is a matter of right and applications for amendment should be allowed at any stage of the trial so as to safeguard the interest of the contesting parties. In the present case, as the trial of the suit has not yet commenced and no issue has been framed, this Court is of the considered view that no prejudice will be caused to any of the parties in allowing the said amendment application. Accordingly, the impugned order dated 26-04-2023 passed by the Court of the Civil Judge (Jr.Divn.), Imphal West-I in Judl. Misc. Case No. 237 of 2022 (Ref. OS No. 54 of 2021) is hereby quashed and set aside. Resultantly, the said amendment application registered as Judl. Misc. Case No. 237 of 2022 is hereby allowed.

[8] Petitioner is directed to file the amended plaint before the Trial Court within a period of 3(three) weeks from today.

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

JUDGE

Dhakshori