



Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

CRP No. 2 of 2019

Date of Decision: 22.08.2024

Smti. Pemilish D. Sangma

:::Petitioner

-Vs-

Smti. Bensilla Ch. Sangma
W/o Cholish M. Sing Marak
R/o Mukdangra, P.O Mukdangra,
P.S. Garobadha South West Garo
Hills, Meghalaya

:::Respondent

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Chief Justice (Acting)

Appearance:

For the Petitioner/Appellant(s) : Ms. S. Bhattacharjee, Adv.

For the Respondent(s) : Mr. P.T. Sangma, Adv.

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

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



JUDGMENT AND ORDER

1. The instant Revision Application under Rule 6 of the Meghalaya High Court (Jurisdiction over District Council Courts) Order 2014, has been preferred against an order dated 11.12.2018, passed by the learned Judge, District Council Court at Tura, in Misc. Appeal No. 7/2017, whereby an order dated 14.07.2017, passed by the Judicial Officer Sub-ordinate Court, GHADC in Civil Appeal No. 4/2016, has been set aside.

2. The brief facts are that the petitioner who is stated to be the widow of one (L) Prinson D. Sangma, claims to have acquired right, title and interest to the properties held by her husband during his lifetime, on the same having devolved on her deceased husband, on the demise of his parents namely (L) Ginseng Sangma and (L) Kumodini Sangma. Challenge had been made by the respondent to this claim on the ground that the said properties should vest in her, inasmuch as, she is the adopted daughter of (L) Ginseng Sangma and (L) Kumodini Sangma. It appears that thereafter the matter was taken before the Mukdangra Village court by the respondent, which then by order dated 10.12.2015, by a brief order decided as follows.

***Office of the Secretary
Mukdangra V/Court
E-III-24
Dist: S/West Garo Hills, Mekdangre
Date: 10-12-2015***



Rai Order

Sub: Rai Order report from Mukdangre Village Court.

Smti. Bensilla Ch. Sangma

-Bolgongre

Sir,

We the members of Mukdangre V/Court have the honour to write to the Judicial Branch of GHADC.

Upon enquiry conducted on both the clan members, it is concluded that Smti. Premelish Sangma is not entitled to inherit the property. As per Garo customary law, the daughter in law cannot inherit the property of the parents-in-law. As per the custom of the garo's son's lives in the house of the wife and is barred from inheriting the parents property. Therefore, according to the garo custom when a family does not have the daughter of their own, they are to adopt a daughter from the same clan. In the present case, on enquiry it is found that Smti. Bensilla Ch. Sangma was adopted at the age of 9 to 10 in the household of (L) Ginseng Sangma and (L) Kumodini Ch. Sangma. Therefore, the entire property of (L) Ginseng Sangma and (L) Kumodini Ch. Sangma should be inherited by Smti. Bensilla Ch. Sangma. This is our decision and no Court should dishonor our decision of the Mukdangra V/Court and we are writing this report to the Judicial Branch.

Jury Member:

- 1. Kalsin Sangma***
- 2. Wanseng Sangma Mukdangra***



***Sd/-
Lasker
V/Court
G.D.C, Tura***

***Sd/-
Secretary
Mukdangra
V/Court
West Garo Hills***

3. The petitioner being aggrieved by the above noted decision, then preferred an appeal before the Court of the Judicial Officer, Sub-ordinate Court, GHADC at Tura, which was numbered as Civil Appeal No. 4 of 2016. In the Memo of Appeal, the petitioner had also taken the ground that Village Court did not allow her to examine her witnesses, to defend her right, title and interest over the said properties, or consider the fact that she possessed periodic pattas for the same, and had been in the exclusive possession for above 25 years. The respondent had then entered appearance and had filed objection to the appeal memo. The Court of Judicial Officer, then by order dated 14.07.2017, without entering into the merits of the matter, on the ground that the Title Suit before the Village Court was barred by limitation on a finding that the suit had been instituted after 21 years, as against the legal requirement of 12 years from the date of dispossession, allowed the appeal and dismissed the suit of the respondent.



4. The respondent then preferred an appeal against the order dated 14.07.2017, before the Judge, District Council Court, GHADC, Tura, who then by order dated 10.12.2018, passed in Misc. Appeal No. 7 of 2017, allowed the appeal by applying Garo customary law, especially on the issue, as to whether a man can inherit his parents property. The learned Lower Appellate Court, while setting aside the order dated 14.07.2017, upheld the order passed by the Village Court dated 10.12.2015, and also directed for cancellation of pattas of the suit land, standing in the name of the petitioner.

5. In the course of the proceedings before this Court, the learned counsel for both the parties had submitted at length to try to establish their rights and claims over the said properties, and this Court had even referred the matter for mediation, which though attempted, was unsuccessful. In the hearings that commenced thereafter, it was noticed that the case rested on peculiar facts, inasmuch as, the claim of the respondent to be the adopted daughter had been resisted by the petitioner, and further other attendant facts, such as, whether the deceased husband of the petitioner had been gifted the said properties since 1993, which were thereafter on his demise devolved on the petitioner, had never been conclusively decided by the Courts below. The more startling fact is that no witnesses were examined and no evidence was tendered in the proceedings before the Village Court,



and as per the petitioner, the Village Court did not even allow a copy of the plaint to be supplied to her, to enable her to file her written statement.

6. A perusal of the Village Court's order would reflect that the proceedings were summary in nature, without any sort of an inquiry being conducted or the fundamental principles of judicial procedure being followed. The order of the first appellate court it can be seen, was arrived at on the consideration of limitation only, and of the second appellate court on a discussion of Garo customary law. As already observed by this Court in its order dated 08.05.2022, in view of the omissions it would be best served, if the suit was tried de novo, considering the fact that the entire proceedings before the Village Court were highly irregular, but had however at that stage, referred the matter for mediation, which as noted earlier was unsuccessful.

7. Therefore in consideration of the facts and circumstances and in the interest of justice, as it is seen that the matter requires proper adjudication, and the parties be allowed adequate opportunity to present the case by adducing evidence and also producing whatever materials necessary in support of their respective cases, the matter shall accordingly stand remanded for fresh adjudication. However, to expedite the case and to ensure that the same is decided in accordance with law and procedure, it is ordered, and as agreed by the parties, that the de novo trial be conducted



before the Court of the Judicial Officer, Sub-ordinate Court, GHADC at Tura, instead of remanding the same to the Village Court.

8. Consequently, the impugned order dated 11.12.2018, passed by the learned Judge, District Council Court at Tura, in Misc. Appeal No. 7/2017 is set aside and quashed, and the Revision Application is accordingly disposed of.

9. Parties are put to notice to appear before the Court of Judicial Officer, Sub-ordinate Court, GHADC at Tura on 24th September, 2024 for commencement of proceedings. Until orders are passed by the Court below, status quo shall be maintained by the parties, as to the properties in question.

10. Lower Court records to be transmitted back immediately.

Chief Justice (Acting)

Meghalaya
22.08.2024
"D.Thabab-PS"