



Serial No. 01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

MC(CRP) No. 5 of 2024

Date of Decision: 12.09.2024

U Parlang Phawa
S/o (L) Restwell Tariang
R/o Iawmusiang
P.O. & P.S.: Jowai
District: West Jaintia Hills,
PIN: 793150

:::Petitioner

-Vs-

1.U. Arwis Lyngdoh,
S/o (L) Hari Sari,
R/o Mukhla village
P.O. & P.S.: Jowai
Dist.: West Jaintia Hills

2.Janpoi Rymbai
Substituting (L) Barwil Sari
R/o Jowai, District: West Jaintia Hills
PIN: 793150

3.U Montri Passah
Substituting (L) Kermon Passah who had
Substituted (L) Riangmon Passah,
R/o Panaliar, Jowai District, West
Jaintia Hills
PIN: 793150

:::Respondents



Coram:

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

Appearance:

For the Petitioner/Appellant(s) : Mr. P.K. Borah, Adv.

For the Respondent(s) : Mr. Philemon Nongbri, 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 for condonation of 1686 days has been made for preferring the instant Civil Revision Application directed against an order dated 12.09.2017, passed in T.S. No. 18/1982, by the Court of Presiding Officer, Sub-ordinate District Council Court, Jowai, wherein the suit was dismissed for default for non-appearance of the plaintiff.

2. The reasons as set out in the Misc. Application are that the petitioner was not aware that the suit has been dismissed for default and on the demise of the original plaintiff, when the petitioner filed an application for substitution on 20.03.2018, it came to his knowledge that the suit had been dismissed on 12.09.2017. Mr. P.K. Borah, learned counsel for the petitioner



has submitted that gross error had been committed by the Court below, as on the date the suit was dismissed, the matter had not been fixed for hearing, to attract the application of Order 9 Rule 8 CPC. On these grounds he submits, the condonation application be allowed and the main Revision Application be taken up for disposal.

3. An objection has been filed by the opposite parties that the application itself is not maintainable, inasmuch as, the dismissal of the suit on default was under Order 9 Rule 8 CPC, and remedy for challenging the same is to file an appeal before the Court of the Judge, District Council Court, and as such, the main Civil Revision Application itself is not maintainable. It is submitted by the learned counsel for the respondents, Mr. Philemon Nongbri that the delay is enormous, and no explanation has been provided for the same.

4. Having heard the learned counsel for the parties, at the outset it is noted that there is no specific statutory limitation period provided for filing an application under Article 227 of the Constitution, and Courts in considering any delay will take into account the nature of the case and reasons for the delay. As such, the instant application is taken together with the main Revision Application for consideration in deciding as to whether the instant application under Article 227 of the Constitution is maintainable at all.



5. In the instant case, what is apparent is apart from the long unexplained delay, from the date of knowledge of the dismissal of the suit, in March 2018, the petitioner has not availed of available appellate remedy, but instead has sought to revive a matter, which has been beset with laches and lapses in the entire conduct of the proceedings by the instant Revision Application. There being no irregularity of procedure on the part of the Courts below in dealing with the matter, and the unexplained delay which has been caused being solely attributable to the petitioner, no case has been made out for any interference by this Court in exercise of powers under Article 227 of the Constitution of India, and the instant application stands dismissed.

6. As the main Revision Petition itself has been taken into consideration, Registry is directed to register the same for the purpose of record.

Chief Justice (Acting)