



Serial No.24
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 397 of 2023

Date of Decision : 02.12.2024

Shri. Ialamlad Kharkongor,
Son of (L) Hoster Deingdoh,
Resident of Kench's Trace,
Shillong- 793004,
East Khasi Hills District, Meghalaya.

...Petitioner

-Versus-

1. State of Meghalaya
Represented by the Chief Secretary.
2. Deputy Commissioner (RGN)
Ri-Bhoi District, Meghalaya.
3. Registrar (RGN)
Office of the Deputy Commissioner,
Ri-Bhoi District, Meghalaya.
4. Sub-Registrar (RGN)
Office of the Deputy Commissioner,
Ri-Bhoi District, Meghalaya.
5. Dorbar Shnong Nongrim Nongladaw,
Represented by the Headman
Shir. Karbius Dkhar,
Ri-Bhoi District, Meghalaya.
6. The Office of the Lyngdoh Raid,
Raid Bhoisala represented by
Shri. Melcyar Lyngdoh (Lyngdoh)
Ri-Bhoi District, Meghalaya.

...Respondents



Coram:

Hon'ble Mr. Justice H.S.Thangkhiew, Judge

Appearance:

For the Petitioner/Applicant(s) : Mr. K.Ch. Gautam, Adv.

For the Respondent(s) : Ms. I.Lyngwa, GA for R 1-4.
Mr. P.Yobin, Adv. for R 5.
Ms. P.Riahtam, Adv. for R 6.

- | | | |
|-----|--|--------|
| 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. The writ petitioner is before this Court with a prayer that the Deed of Declaration which the petitioner and his siblings seek to execute be directed to be registered within a reasonable period of time. The reason as made out for approaching this Court at the initial stage prior to presentation for registration, is due to the fact that the registration authority i.e. the respondent No. 4, has in the list wherein the documents required for Deed of Declaration which has been given, requires a No Objection Certificate from the Headman/Syiem Raid/ Sardarship, which the petitioner is not in possession of.



2. Mr. K.Ch Gautam, learned counsel for the petitioner submits that the No Objection Certificate as required on application from the Headman respondent No. 5 could not be obtained, inasmuch as, the original Sale Deed which had been executed by his father, his predecessor in interest with the vendor on 12-04-1988, is not in possession apart from a photocopy thereof. He further submits that as the said No Objection Certificate is not available, the writ petitioner has been compelled to approach this Court to allow the petitioner to present the Deed of Declaration for necessary registration.

3. Ms. I.Lyngwa, learned GA appearing on behalf of the State respondents No. 1-4, has at the outset submitted that the writ petition is premature, inasmuch as, the writ petitioner has approached this Court before presenting the said documents before the registration authority and that an assumption has been made that the same would be rejected without consideration. She further submits that in the statute itself, i.e. the Registration Act, at Section 71 provides that, if a document is refused to be registered, the Sub-Registrar shall record reasons therein, where after Section 72 provides for statutory appeal against such non-registration. She reiterates her submission that the writ petitioner being premature, the same should be rejected.



4. Mr. P.Yobin, learned counsel appearing for the respondent No. 4 Headman, submits that the plot of land has a chequered history, and the village Dorbar is not able to discern as to the area and schedule, inasmuch as, there is third party interest involved in the form of the MIDC, to which a portion of the land which had been sold by the predecessor in interest of the writ petitioner, had been mortgaged. He therefore, submits that in view of all these circumstances, the No Objection Certificate has not yet been granted until these facts are determined and finalized.

5. Ms. P.Riahtam, learned counsel appearing for the respondent No. 6, submits that whatever documents that had been annexed in the affidavit for which allegations have been made to them being fabricated is not to the knowledge of the respondent No. 6, as the documents annexed have been obtained from the records present in the office of the Lyngdoh Raid.

6. Having heard the learned counsel for the parties, it appears that the writ petitioner has been constrained to approach this Court apprehending that there would be outright rejection of his application for registration of the Deed of Declaration due to unavailability of the No Objection Certificate, which is given at Sl. No. 5 of the list of necessary documents for registration of a Deed of Declaration. However, this Court notes from an examination of the materials on record that the property in question



which was originally held by the father of the writ petitioner has its own history which should be examined in the facts and circumstances of the case itself, especially with regard to the manner in which the same has changed hands.

7. In this view of the matter, more so, in view of the fact that the instrument/document is yet to be presented for registration before the respondent No. 4 who is the competent authority to examine such matters, it is provided that the writ petitioner shall present the same for registration before the respondent No. 4, who shall in consideration of all the facts and circumstances thereof, decide the matter in accordance with law.

8. Mr. K.Ch Gautam, learned counsel for the petitioner shall as per his submissions, present the same for registration within two weeks from the date of this order.

9. As ordered above, the matter stands closed and disposed of.

Judge