

GAHC020003422024

2024:GAU-NL:608



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
KOHIMA BENCH

Case No. : C. REVN/9/2024

SHRI TSUMONGO OVUNG
R/O VUNGOJU, WOKHA TOWN
NAGALAND-797111

VERSUS

WOKHA TOWN BAPTIST CHURCH AND 5 ORS
THROUGH ITS BOARD OD DEACONS
REPRESENTED BY ITS SECRETARY SHRI. RUSHAMO TSOPOE
WOKHA TOWN, WOKHA NAGALAND-797111

2:SHRI ORENVUNGO HUMTSOE
CONVENOR
LEGAL CELL COMMITTEE
WOKHA TOWN BAPTIST CHURCH
WOKHA
NAGALAND-797111

3:THE STATE OF NAGALAND
REPRESENTED BY THE CHIEF SECRETARY
GOVT. OF NAGALAND
NAGALAND KOHIMA-797001

4:THE HOME COMMISSIONER
GOVT. OF NAGALAND
KOHGIMA NAGALAND-797001

5:THE DEPUTY COMMISSIONER
WOKHA NAGALAND-797111

6:THE LOTHIA BAPTIST CHURCHES ASSOCIATION

WOKHA NAGALAND-79711

Advocate for the Petitioner : C. T. JAMIR, SR. ADV, KROVI TSUKRU,NUNGSANG
AIER,JIWALO APON,I IMCHEN,ALIBA OZUKUM,ASA RUTSA,TOSHI JAMIR,IMTILA
PONGEN,JAWAMONG YADEN,O TEMJEN JAMIR

Advocate for the Respondent : A. ZHIMOMI, ,LHOUSINO,,,

Linked Case : C. REVN/10/2024

SHRI YANPANSAO

LMTC COLONY
WOKHA

NAGALAND 797111

VERSUS

WOKHA TOWN BAPTIST CHURCH AND 5 ORS
THROUGH ITS BOARD OF DEACONS

REPRESENTED BY ITS SECRETARY

SHRI RUSHAMO TSOPOE

WOKHA TOWN

DISTRICT WOKHA

NAGALAND 797111

2:SHRI ORENVUNGO HUMTSOE

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LEGAL CELL COMMITTEE

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DISTRICT WOKHA
NAGALAND 797111

6:THE LOTH BAPTIST CHURCHES ASSOCIATION

DISTRICT WOKHA
NAGALAND 797111

Advocate for : C. T. JAMIR
SR. ADV

Advocate for : A. ZHIMOMI appearing for WOKHA TOWN BAPTIST
CHURCH AND 5 ORS

Linked Case : C. REVN/11/2024

SHRI MHONSAO NGULLIE

NIROPEN COLONY
WOKHA TOWN
WOKHA
NAGALAND 797111

VERSUS

WOKHA TOWN BAPTIST CHURCH AND 5 ORS

THROUGH ITS BOARD OF DEACONS

REPRESENTED BY ITS SECRETARY

SHRI RUSHAMO TSOPOE

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DISTRICT WOKHA

NAGALAND 797111

Advocate for : C. T. JAMIR

SR. ADV

Advocate for : A. ZHIMOMI appearing for WOKHA TOWN BAPTIST
CHURCH AND 5 ORS

Date of hearing : 14.10.2024.
Date of Judgment : 26.11.2024

**BEFORE
HON'BLE MR. JUSTICE BUDI HABUNG**

**JUDGMENT AND ORDER ::
[CAV]**

Heard Mr. C. T. Jamir, learned Senior counsel assisted by Mr. I. Imchen, learned counsel for the petitioners. I have also heard Mr. A. Zhimomi, learned counsel assisted by Ms. Lhousino, learned counsel appearing on behalf of the respondents.

2. These batches of civil revision petitions, arising from the same common order, are taken up together for disposal.

3. By filing these applications under Article 227 of the Constitution of India the petitioners in the above batches of petitions have assailed the common order dated 06-06-2024 passed by the learned District Judge, Wokha, Nagaland in **Civil Misc Case No. 03/2024, Civil Misc Case No. 04/2024 and Civil Misc Case No. 05/2024** arising out of **Civil Suit No. 01/2023**. By the said common order the learned District Judge, Wokha has dismissed the Civil Misc Case No. 03/2024, Civil Misc Case No. 04/2024 and Civil Misc Case No. 05/2024 filed by the applicants/petitioners herein under Order I Rule 10 of the Code

of Civil Procedure for deletion of their name as defendants in the Civil Suit No. 01/2023 filed by the plaintiffs/respondents herein for declaration of right, title and interest to immovable properties, delivery of possession, perpetual injunction and other consequential reliefs.

4. The case of the petitioners leading to the filing of these revision petitions in brief is that initially the **Samyan Baptist Ekhumkho**, Vungoju Sector, **Tchuphyangzu Baptist Ekhumkho**, NST Sector and **Tiyichan Lotha Baptist Church Ekhumkho**, Saron Sector (herein after referred to as three churches) were under the Wokha Town Baptist Church (WTBC) before their recognition as separate individual churches. After the recognition of three churches as independent churches, situation became tense amongst the believers of the three churches. Owing to the tensed situation, the Deputy Commissioner, Wokha issued an order dated 11-02-2021 to maintain peace and tranquility in Wokha town. The said order was challenged by the respondents Nos. 1 and 2 in WP(C)/69/2021 which was disposed of by an order dated 16.09.2021 on the basis of the submission made by the learned counsel for the parties that the members of the church will worship in their respective churches. The said judgment and order dated 16.09.2021 was misinterpreted by the respondents that the direction of the Hon'ble Court to hand over the keys to the respective functionaries of the churches was confined only to the church and does not include the Apartments, Office and Sunday School buildings. Therefore, the Deputy

Commissioner, Wokha issued a circular dated 18-09-2021 by misinterpreting the order dated 16-09-2021 passed in WP(C)/69/2021 and on being aggrieved, the three churches filed Review Petition No. 3/2021. In the said Review petition, Shri Tsumongo Ovung (petitioner in Civil Rev. Pet No.9/2024) represented the Samyan Baptist Ekhumkho; Shri. Yanpansao (petitioner in Civil Rev. Pet No 10/2024) represented the Tchuphyangzu Baptist Ekhumkho; and Shri Mhonsao Ngullie (petitioner in Civil Rev. Pet No.11/2024) represented the Tiychan Lotha Baptist Church Ekhumkho. The said Review petition was disposed of by this Hon'ble Court vide order dated 24-02-2023 with the finding that, *"...this Court is not the right forum to decide regarding the rights and titles of the parties at this stage, the same has to be first decided by the Civil Court having geographical and pecuniary jurisdiction"*.

5. Accordingly, in view of the judgment and order passed in the aforesaid review petition, the present respondents nos. 1 and 2 approached the District Judge, Wokha by filing Civil Suit No. 1/2023, wherein the present petitioners namely; Shri Tsumongo Ovung, Shri. Yanpansao and Shri. Mhonsao Ngullie have been impleaded as defendant no. 1, 2 and 3 representing their respective churches.

6. Being aggrieved, the three petitioners had filed separate **Civil Misc Case No. 05/2023, Civil Misc Case No. 06/2023** and **Civil Misc Case No. 07/2023** respectively under Order VII Rule 11 of Code of Civil Procedure, 1908 for rejection of the

aforesaid Civil Suit No. 01/2023, on the ground of mis-joinder of parties amongst other contending that the petitioners were impleaded as defendant Nos. 1, 2 & 3 respectively in their individual capacity whereas they cannot represent the three churches namely; Samyan Baptist Ekhumkho, the Tchuphyangzu Baptist Ekhumkho, and the Tiyichan Lotha Baptist Church Ekhumkho respectively. The objection raised by the petitioners were not considered and dismissed the Misc. cases on 27.09.2023, and the same have been challenged before this Hon'ble Court in separate Civil Revision which is pending for disposal.

7. Thereafter, the petitioners have filed three separate **Civil Misc Case No. 03/2024, Civil Misc Case No. 04/2024** and **Civil Misc Case No. 05/2024** respectively in **Civil Suit No. 01/2023** before the District Judge under Order 1 Rule 10(2) of the Code of Civil Procedure, 1908, for striking out the name of the petitioner on the ground that they are not a necessary party. The said application has also been dismissed by the impugned common order dated 06.06.2024 on the ground that the Church is not a juristic entity and cannot be made a party, therefore, the petitioners are necessary party to represent the 3 three Churches.

8. According to the learned counsel for the petitioners, the observation made by the learned District Court in the said impugned order dated 06.06.2024 suffers from serious legal impediments for the Civil Suit, to proceed in accordance with the

provisions of law as in the Civil Review Petition No. 03/2021, the direction was to approach the competent Civil Court by the parties and it is the churches, who are the parties and not the present petitioners in persons, and as such, the same is liable to be quashed and set aside.

9. Accordingly, being aggrieved by the common order, the petitioners have filed C. Revn. No. 9/2024, C.Revn. No. 10/2024 and C.Revn.No.11/2024 amongst others, on the following grounds:

(i) The District Judge's finding that the application under Order VII Rule 11 of Code of Civil Procedure, 1908, bars the petitioner from filing an application under Order 1 Rule 10 (2) of the Code for deletion of name is erroneous. The Trial Court dismissed the application under Order VII Rule 11 by order dated 27.09.2023 stating that the deletion of name is not a ground under Order VII Rule 11. Therefore, the petitioner is not barred from making an application under the appropriate provisions of the Code of Civil Procedure, 1908, specially under Order 1 Rule 10(2).

(ii) That the findings in the impugned order dated 06.06.2024 which state that the three churches, namely the Samyan Baptist Ekhumkho, the Tchuphyangzu Baptist Ekhumkho, and Tiychan Lotha Baptist Church Ekhumkho are not juristic entities and that the petitioners representing these churches are necessary parties, suffers from grave illegality. This finding is misconceived and not sustainable in the eye of the law.

Impleading a necessary party and the individual swearing the affidavit on behalf of a party should be interpreted differently. Therefore, the petitioners cannot be made parties in person, as they possess no personal title over the properties in dispute, and no decree can be granted against or in favour of them.

(iii) That the impugned order dated 06.06.2024 has clearly arrived to the finding that the present three petitioners had represented the 3 churches only in their representative capacity by swearing affidavit but has failed to appreciate the fact that a person representing an institution on due authorization is not a necessary/proper party to the Suit.

(iv) That the impugned order contains an error in concluding that the present petitioners are necessary parties to the suit, when the actual dispute is between the Wokha Town Baptist Church and the three churches, namely, Samyan Baptist Ekhumkho, the Tchuphyangzu Baptist Ekhumkho, and Tiyichan Lotha Baptist Church Ekhumkho. Furthermore, there are no specific pleadings in the plaint indicating that the petitioners have any individual legal title or direct ownership over the suit property, nor is any relief claimed against them.

(v) That the impugned order suffers from illegality by concluding that the present three petitioners are necessary parties and that their names cannot be struck off as a party's respondents. It is evident that no effective order or decree can be passed against or in favour of the petitioners, as they have no personal titles ownership in disputed property.

(vi) That impleading a person who represented the churches in a representative capacity by swearing an affidavit on behalf of the churches with due authorization in a different litigation, does not automatically qualify them as a necessary party to the pending suit. This constitute an illegal exercise of jurisdiction, and thus, the impugned order is liable to be interfered with by this Court.

(vii) That the present petitioners are neither necessary party nor do they have authorization to represent the churches of Samyan Baptist Ekhumkho, Tchuphyangzu Baptist Ekhumkho, and Tiychan Lotha Baptist Church Ekhumkho. Therefore, the impugned order which upholds that the present petitioners are liable to represent the three churches without any authorization is legally untenable.

10. In support of his submission, the learned counsel for the petitioners relied on the decision of the Hon'ble Supreme Court in the case of ***Mumbai International Airport Private Limited vs. Regency Convention Centre and Hotels Private Limited and Ors.***, reported in ***(2010) 7 SCC 417***. The relevant paragraphs are reproduced below:

" 13. The general rule in regard to impleadment of parties is that the plaintiff in a suit, being dominus litis, may choose the persons against whom he wishes to litigate and cannot be compelled to sue a person against whom he does not seek any relief. Consequently, a person who is not a party has no right to be impleaded against the wishes of the plaintiff. But this general rule is subject to the provisions of Order I Rule 10(2) of Code of Civil Procedure ('Code' for short), which provides for impleadment of proper or necessary

parties. The said sub-rule is extracted below:

"10.(2) Court may strike out or add parties- The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added."

14. *The said provision makes it clear that a court may, at any stage of the proceedings (including suits for specific performance), either upon or even without any application, and on such terms as may appear to it to be just, direct that any of the following persons may be added as a party: (a) any person who ought to have been joined as plaintiff or defendant, but not added; or (b) any person whose presence before the court may be necessary in order to enable the court to effectively and completely adjudicate upon and settle the question involved in the suit. In short, the court is given the discretion to add as a party, any person who is found to be a necessary party or proper party.*

15.A *'necessary party' is a person who ought to have been joined as a party and in whose absence no effective decree could be passed at all by the Court. If a 'necessary party' is not impleaded, the suit itself is liable to be dismissed. A 'proper party' is a party who, though not a necessary party, is a person whose presence would enable the court to completely, effectively and adequately adjudicate upon all matters in disputes in the suit, though he need not be a person in favour of or against whom the decree is to be made. If a person is not found to be a proper or necessary party, the court has no jurisdiction to implead him, against the wishes of the plaintiff. The fact that a person is likely to secure a right/interest in a suit property, after the suit is decided against the plaintiff, will not make such person a necessary party or a proper party to the suit for specific performance."*

11. For the grounds stated above, supported by the decision of the Hon'ble Supreme Court in the case of **Mumbai**

International Airport Private Limited (Supra), the learned counsel for the petitioners submitted that there has been an illegal exercise of jurisdiction. Thus, he prays for quashing and setting aside the impugned common order dated 06.06.2024, as well as for a direction to delete the petitioners' name as defendant No. 1, 2 and 3 in Civil Suit No. 01/2023.

12. On the contrary, the learned counsel for the respondents, while defending the impugned order dated 06.06.2024 passed by the learned District Judge, Wokha submitted that the three churches are not juristic entities. Therefore, they must be represented in a representative capacity by their members. He submitted, that in all the proceedings prior to the filing of the Civil Suit, the three petitioners had actively pursued the matters on behalf of three churches. In the suit in question, their names have been mentioned as the defendants No.1, 2 and 3, representing the three churches, which they had previously represented and not in their personal capacity. Admittedly, they are the authorized representative of the churches. To support his argument, the learned counsel for the respondent referred to the statement made by the three petitioners in paragraph 2 of the Civil Review Petition No. 03/2021 filed by them, where the respondents/revision petitioners herein had stated, "**...that the applicant No. 1 is the Samyan Baptist Ekhumkho, Vungoju represented by Mr. Tsumongo Ovung, applicant No. 2 Tchuphyangza Baptist Ekhumkho, NST colony is represented by Mr. Yanpansao and the applicant No. 3 Tiychan Lotha Baptist Ekhumkho is represented by Mr. Mhonsao Ngullie. The applicant**

No. 1 is Advisor, Action Committee 3(three) Churches, the applicant No. 2 is the Convenor, Action Committee, 3 (three) Churches and the applicant No. 3 is the Secretary of the 3 (three) Churches. All the applicants were authorized by the three Churches to file the instant review application and to take any steps for redressal of the grievances of the three Churches on their behalf. All the applicants have a common cause of action and grievances and as such, the applicants are filing the instant review application jointly."

13. According to the learned counsel for the respondents, the above statement clearly demonstrate that the petitioners had the authority to represent the three churches in a representative capacity. Therefore, it is misguided for the petitioners to claim that they cannot be necessary parties representing the respective churches in the pending suit.

14. The learned counsel for the respondents further submitted that the three churches-Samyan Baptist Ekhumkho, Tchuphyangzu Baptist Ekhumkho, and Tiychan Lotha Baptist Church Ekhumkho are not juristic entities. As such, they must be represented by their members, and it was appropriately done by above petitioners in the earlier proceedings including Review Petition No. 03/2021. It is also submitted that the title suit filed before the District Judge is in pursuant to the observation made by this Hon'ble Court in the Civil Review petition No.03/2021, whereby this Hon'ble Court directed the parties to approach a Civil Court of competence having jurisdiction. Since the petitioners had represented the three churches in the said Civil

Review petition, they have been impleaded as party respondents representing the three churches.

15. The learned counsel for the respondents further submitted that three churches are not juristic entities and were therefore represented by the petitioners in the earlier proceedings. Since the petitioners represented the three Churches, they have been impleaded as party respondents in their representative capacity. He further stated that if the petitioners have any difficulties regarding their designation as defendants representing the churches, the respondents/plaintiffs have no objection to impleading the Churches, represented by the petitioners, who are the Advisor, Convenor and Secretary of the three Churches respectively. Additionally, since the suit is pending without further proceeding since 2023 due to multiple Miscellaneous applications/petitions filed by the defendants/petitioners, it is further submitted that the respondents/plaintiffs be allowed to amend the cause title of the suit currently pending before the District Court to save time.

16. In support of his submission that the defendants/petitioners herein can be impleaded in the representative capacity, the learned counsel for the respondent has placed reliance upon the decision of the Hon'ble Supreme Court in the case of ***K. S. Varghese and Others Vs. Saint Peter's and Saint Paul's Syrian Orthodox Church and Ors.,*** reported in ***(2017) 15 SCC 333***. The relevant paragraphs are reproduced below:

"77. This Court has clearly held that the Patriarch could not have unilaterally appointed priests etc. through his delegate. It is one thing to say that the Patriarch could do these things in cooperation with the Catholicos but the ordaining of the priests and Metropolitans by him and his delegate without reference to and over the protestations of the Catholicos, was certainly not the right thing to do since it purported to create a parallel administrative mechanism for the church in spiritual/temporal matters.

*78. The aforesaid findings and the declaration in the aforesaid decree that was passed in the 1995 judgment extracted above, in a representative suit, is binding. This Court in R.Venugopala Naidu & Ors. v. Venkatarayulu Naidu Charities & Ors. (1989) Supp 2 SCC 356 has dealt with the suit under section 92 and Order 1 Rule 8 of CPC and it was held that such a suit is the representative action of a large number of persons who have a common interest. **The suit binds not only the parties named in the suit but all those who are interested in the trust.** It is for that reason Explanation 6 to section 11 CPC constructively bars by res judicata the entire body of interested persons from re-agitating the matters directly in issue in an earlier suit under section 92 CPC. This Court has laid down thus:*

"11. It is not necessary to go into the finding of the High Court that two of the appellants being Muslims can have no interest in the trust as the other two appellants claim to be the beneficiaries of the trust and their claim has not been negated. Moreover, the trust has been constituted to perform not only charities of a religious nature but also charities of a secular nature such as providing for drinking water and food for the general public without reference to caste or religion."

80. The submission that declaration under section 35 of the Specific Relief Act since in personam and the 1995 judgment has to be considered in that spirit, cannot be accepted in view of the aforesaid discussion.

81. Moreover, in the suit culminating into 1995 judgment the relief was not sought inter parties, it was not in personam. The reliefs that were sought were common to Malankara Church. Thus the provisions of section 35 cannot come to the rescue of the appellants so as to prevent the bar of res judicata. This Court in Razia Begum (supra) has also observed that section 43 of the old Specific Relief Act which

is corresponding to section 35 of the Act of 1963 is not exactly of res judicata. It was open to the appellants to become party in the earlier representative suit to defend the common rights which were agitated. Thus, they cannot escape the rigour of the aforesaid provisions and res judicata.

82. *It was submitted that disputes as to faith and worship in the church have to be decided in their presence so as to bind the Parishioners. In our opinion, **the Parishioners were parties in the previous suit decided in 1958 and 1995 and earlier thereto. The question cannot be reopened again and again by them on the ground that they were not parties individually, otherwise the representative suit and issues as well as the right of suing in representative capacity, would lose entire significance.** No doubt it is true as held in Deoki Nandan v. Muralidhar 1956 SCR 756 that the true beneficiaries of religious endowments are not the idols but the worshippers. This principle has also been reiterated in VeruareddiRamaraghava Reddy v. Konduru Seshu Reddy 1966 Supp SCR 270 and Bishwanath v. Shri Thakur Radhaballabhji (1967) 2 SCR 618. There is no dispute with the proposition that the persons who go in only for the purpose of devotion have a greater and deeper interest in temples than mere servants who serve there for some pecuniary advantage. The decisions are based on Hindu religion. However, the principle is one of law applicable to all religious institutions including the churches having a public character."*

17. For the reasons stated above supported by the decision in the above ***K. S. Varghese and Others Vs. Saint Peter's and Saint Paul's Syrian Orthodox Church and Ors (Supra)*** the learned counsel for the respondents submitted that there is no merit in the present petitions and prays for dismissal of the same.

18. Heard, and due consideration has also been given to the rival submission advanced by the learned counsel for the parties. Upon hearing and on consideration, the only issues emerge for the decision of this Court is- ***whether the petitioners who***

represented the three churches in the earlier proceedings, can be impleaded as party defendants representing the same churches in the suit filed against the them.

19. Be it stated here that the issue related to the bar of the petitioner's making application under Order 1 Rule 10 (2) in the light of the dismissal of their petitions under Order VII Rule 11 of the Code of Civil Procedure, 1908 was raised by the petitioners; however, it has not been pressed by the learned counsel for the parties. Be that as it may, it is important to note that the dismissal of the application under Order VII Rule 11 does not bar the petitioners from filing an application under Order 1 Rule 10 (2) for the deletion of a name. The Order VII Rule 11 deals with the rejection of a plaint on specific grounds, such as not disclosing a cause of action, or being barred by law. This dismissal primarily addresses the initial pleadings. On the other hand, Order 1 Rule 10 (2) allows party to apply for the addition or deletion of parties to the suit at any stage. Therefore, these two provisions address different aspects of the proceedings, and the dismissal of the application under Order VII Rule 11, does not preclude the petitioners from making an application regarding party amendments. Thus, the petitioners can still file for the deletion of a name, and such application are typically considered on their own merits. Furthermore, the addition or removal of the parties should not affect the merit of the case. Therefore, while the issue is no longer pressed it stands decided accordingly.

20. Now, coming to the issue in the present case, the application under Order 1 Rule 10(2) is crucial for the fair and just conduct of civil proceedings. It ensures that all parties with a stake in the outcome are included in the litigation, thereby preventing future complications or injustices. The Court may permit the addition of the person if their presence is necessary for adjudication of the matter and at the same time, the Court may also allow deletion of the name of a person whose presence is not required for the adjudication. In the instant case, admittedly, the petitioners Shri Tsumongo Ovung, Advisor of the Action Committee; Shri Yanpansao, Convenor of the Action Committee; and Shri Mhonsao Ngullie, Secretary of the three Churches represented the three churches: Samyan Baptist Ekhumkho, Tchuphyangzu Baptist Ekhumkho, and Tiyichan Lotha Baptist Church Ekhumkho respectively, in earlier proceedings before the High Court in Civil Review Petition no. 3/2021, which they filed jointly. Furthermore, it is clear from the statement made in paragraph 2 of the Civil Review Petition No. 03/2021, whereby the three petitioners stated that *the Samyan Baptist Ekhumkho, Vungaju is represented by Mr. Tsumongo Ovung; Tchuphyangzu Baptist Ekhumkho, NST colony, is represented by Mr. Yanpansao; and Tiyichan Lotha Baptist Ekhumkho is represented by Mr. Mhonsao Ngullie. The petitioners further had stated that they hold the positions as Advisor, Action Committee; Convenor, Action Committee; and Secretary of the three Churches, respectively. They also clarified that they were*

authorized by the three Churches to file the review application and to take any steps for the redressal of grievances on their behalf.

21. The contention of the three petitioners is that they represented the churches solely in a representative capacity, having been authorized by the respective churches for the particular case. This authorization cannot automatically extend to represent the churches in another suit filed against them. The learned counsel for the petitioners submitted that they may or may not be authorized by the Churches to represent them in the present case. Therefore, the petitioners, as an individual acting in their personal capacities are not necessary parties and cannot be impleaded in that capacity unless the church authorize them to do so. Additionally, he argued that the actual parties in the review petition are the churches, not the petitioners in their individual capacities. The direction in the review petition is for the parties to approach the appropriate Civil Court with the jurisdiction to decide their dispute over the properties. Furthermore, the petitioners have no interest in the suit property; thus, no decree can be granted against or in favour of the petitioners in the aforementioned suit. Therefore, they are not the necessary parties in the pending suit, and their names should be struck out under Order 1 Rule 10 (2) of the Code of Civil Procedure, 1908.

22. On the other hand, the learned counsel for the respondents submitted that since the petitioners, namely, Shri Tsumongo

Ovung, Shri. Yanpansao and Shri. Mhonsao Ngullie, are the Advisor, the Convenor, and the Secretary of the three Churches respectively, and they have sworn the affidavits representing the churches- Samyan Baptist Ekhumkho, Tchuphyangzu Baptist Ekhumkho, and Tiychan Lotha Baptist Church Ekhumkho in all proceedings so far, including Review petition 03/2021, they cannot now retract from the responsibility on the ground that they have not been authorized in the present case. The learned counsel further submitted that the three churches are not juristic entities and, as such, cannot be made parties. They must be represented by their members. The petitioners, being the members of the churches, as well as the Advisor, Convenor and Secretary of the three churches respectively, have been authorized to represent the churches in all earlier proceedings and can effectively represent them. Therefore, the present petitioners have been impleaded as parties' respondents representing the respective churches. Hence, by dismissing the applications for deletion of the parties, the learned Trial court has not committed any error.

23. From the record and the submission made by the parties, it appears that the petitioners, being the Advisor, the Convenor, and the Secretary of three Churches respectively, have represented the churches in all proceedings to date. The petitioners were duly authorized by the respective churches to represent them. However, it seems that the petitioners are experiencing difficulties regarding their status as party defendants

representing the churches since the churches have not yet authorized them for this specific role. Nonetheless, the learned counsel for the petitioners has fairly submitted that the petitioners have no objection to the churches, as necessary parties, being impleaded as a party's respondents. In the event that the churches authorize them to represent them, the petitioners would readily do so.

24. The ability of a person who previously represented the churches in a Review petition before the High Court to also represent the Churches in a civil suit typically depends on several factors, including the necessity of having appropriate authority or mandate from the churches to represent them in the civil court. This authority could come from a formal appointment or a resolution by the respective church's governing body. The petitioners may represent the churches, provided they have an authorization. However, in this instance, according to the learned counsel for the petitioners, they have not yet been authorized by the churches to act on their behalf. Moreover, the defendants/petitioners oppose being impleaded in their personal capacity as respondent parties representing churches without any authorization, contending that there cannot be an automatic representation merely because they had represented the churches in the earlier proceedings. Under these circumstances, it appears that there cannot be an automatic representation unless duly authorized.

25. However, in the instant case, it is evident that the

petitioners have been duly authorized by the churches to represent them in earlier proceedings. Admittedly, they represented the respective churches in the following capacity: Shri Tsumongo Ovung as Advisor of the Action Committee for Samyan Baptist Ekhumkho; Shri Yanpansao as Convenor of the Action Committee for Tchuphyangzu Baptist Ekhumkho; and Shri Mhonsao Ngullie as Secretary of Tiychan Lotha Baptist Church Ekhumkho.

26. In this regard, the respondents contended that, since the churches formally designated the petitioners as Advisor, Convenor and Secretary respectively to act on their behalf, they cannot now claim lack of authority to represent the same churches. The learned Counsel for the respondents further submitted that the suit in question was filed pursuant to observations made in the said Review petition and continues from the earlier proceedings in which the petitioners represented the churches. Moreover, the petitioners/ defendants have made no statement indicating that they are no longer the Advisor, Convenor and Secretary of the three churches. In such case, the rule of estoppel applies, preventing the petitioners from both affirming and denying their authority simultaneously. Since the petitioners represented the churches in the earlier proceedings before the Court, they cannot later claim a lack of authority, especially regarding the same matter and in continuation of those earlier proceedings.

27. In the case of **Hemanta Kumar Devi Vs. Praseanna Kumar** reported in **AIR 1930 Cal 32.**, it was held that '*the*

doctrine of approbate and reprobate applies not only to the successive stages of the same suit, but also to another suit, provided the second suit arises from the judgment in the first.

Given these circumstances, the petitioners, who previously represented the churches, must maintain their position in the current proceedings. In the event of a change in the portfolio holder of the churches, the churches are always at liberty to inform the court and request a change of their representatives accordingly.

28. Considering the facts and circumstances of the case, and also acknowledging that the petitioners represented the churches in earlier proceedings as the Advisor, Convenor, and Secretary of the three Churches respectively, and that this prior representation is closely related to the current Civil Suit filed as a result of observation made in earlier proceeding; the court is not inclined to interfere with the order dated 06.06.2024 passed by the learned District Judge, Wokha so far as the representation of the petitioners for their respective churches is concerned.

29. However, it is noted that the petitioners have no personal title over the disputed properties, and no decree can be granted against or in favor of the petitioners in their personal capacity. Therefore, this Court observes that the three churches should be impleaded as respondents, represented by the petitioners in their capacity as Advisor, Convenor, and Secretary of three Churches respectively.

30. The respondents/plaintiffs will be allowed to file an

appropriate application to implement this change. Additionally, the three Churches retain the right to change their respective representatives, if the petitioners no longer hold the aforementioned positions, by filing an appropriate application as needed.

31. With the above observation, these civil revisions; C.Revn./9/2024, C.Revn./10/2024 and C.Revn./11/2024 stands disposed of.

JUDGE

Comparing Assistant