

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

**MFA No.1 of 2023**

Kumari Amom Mema Devi, aged about 58 years, D/o (late) A. Borajaoba Singh of Taobunghok Awang Leikai, P.O. Langjing, P.S. Lamphel, Imphal West District, Manipur-7951003.

***Appellant***

**Vs.**

Kumari Thokchom Manglembi Devi, aged about 58 years, D/o (Late) Th. Gobrodhon Singh of Sagolband Nepra Major, PO & PS Imphal, Imphal West District, Manipur-795001 & Anr.

***Respondents***

BEFORE  
**HON'BLE THE CHIEF JUSTICE MR. D. KRISHNAKUMAR**

**ORDER**  
**(Oral)**

**06.03.2025**

**[1]** Mr. K. Modhusudon, learned counsel, appears for the appellant and Mr. Dayali Elangbam, learned counsel, appears for the respondents.

**[2]** This appeal has been filed against the impugned judgment and decree dated 21.12.2019 passed by the learned Court of Civil Judge Sr. Division, Imphal West in original (Money) suit No. 105 of 2017.

**[3]** The appellant is the plaintiff in the suit in original (Money) suit No. 105 of 2017 on the file of Civil Judge Senior Division, Imphal West for recovery of money to a sum of Rs.26,07500/- (Rupees twenty six lakhs seven thousand five hundred). The issues were being framed by the learned Single Judge

(Imphal) in the aforesaid suit. The preliminary issue also framed whether the suit is barred by limitation or not. The said preliminary issue was taken into consideration on the objection made by the respondents herein.

**[4]** According to the appellant that the appellant has paid a sum of Rs.2,50,000/-(Two lakhs fifty thousand) to the respondents herein on 01.08.2012 and subsequently, the respondents again requesting the appellant to give another 4,00,000/-(Four lakhs) as loan amount to the respondent herein. The respondents have borrowed the aforesaid amount of Rs. 4,00,000/-(Four lakhs) on 12.08.2012 with an interest at the rate of 5% per month on the Principal amount. The said amount has to be paid on or before 12.01.2013. According to the appellant that the respondents have made an objection that the said suit is barred by Limitation under Section 14 of the Limitation Act. The trial court has considered the said objection of the respondent that the appellant has filed a complaint before the Legal Aid Clinic at Cheirap Complex in the year 2014 to recover the aforesaid debt amount. The respondents herein have paid a sum of Rs.50,000/-(fifty thousand) on 09.09.2014 and Rs.40,000/-(Forty Thousand) on 18.11.2014 at the Legal Aid Clinic based on the appellant's claim made before the Legal Aid Clinic at Cheirap Court, and was not accepted and dismissed the suit.

**[5]** The learned counsel appeared for the appellant draws attention of this Court by relying upon section 19 of the Limitation Act which clearly states that when the part amount has been paid by the respondents herein for settling the aforesaid outstanding due amount of Rs. 6,50,000/-(Six Lakhs &

fifty thousand) as Principal amount and therefore, the limitation period is accrued from the date of the said amount has been paid to the appellant herein and thus, according to him, in view of the aforesaid section 19 of the Act, the said suit is within the prescribed period of 3(three) years' time but the trial court has considered under Section 14 of the Limitation Act which says that exclusion of the limitation period when any suit is filed before the wrong forum which is without having any jurisdiction and thus, the said provision of the Act will not apply to the facts of the case on hand and therefore, the decision of the trial court is liable to be set aside.

[6] The learned counsel appearing for the respondent vehemently argued before this Court that the said provision of section 14 of the Limitation Act will squarely apply to the fact that the appellant has sought her remedy before the Legal Aid Centre seeking for payment of the said amount and therefore, she has wrongly approached before the Legal Aid Centre and hence, the said suit is liable to be dismissed as held by the trial court.

[7] Heard the parties concerned and perused the materials on record.

[8] The point for consideration in the appeal is whether the said suit is barred by the limitation under Section 14 of the Limitation Act?

[9] The appellant would rely upon the provision of section 14 of the Act which has been described as follows:-

*“14. Exclusion of time of proceeding bona fide in court without jurisdiction.*

*(1) In computing the period of limitation for any suit the time during which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the defendant shall be excluded, where the proceeding relates to the same matter in issue and is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.*

*(2) In computing the period of limitation for any application, the time during which the applicant has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the same party for the same relief shall be excluded, where such proceeding is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.*

*(3) Notwithstanding anything contained in rule 2 of Order XXIII of the Code of Civil Procedure, 1908 (5 of 1908), the provisions of sub-section (1) shall apply in relation to a fresh suit instituted on permission granted by the court under rule 1 of the Order where such permission is granted on the ground that the first suit must fail by reason of a defect in the jurisdiction of the court or other cause of a like nature.”*

**[10]** According to the learned counsel appearing for the appellant that he is not pressing with the above said provision under Section 14 of the Limitation Act for entertaining the suit within limitation period. The respondents herein had paid Rs.50,000/-(fifty thousand) and Rs. 40,000/-(forty thousand) within the limitation period of 3(three) years and therefore, Section 19 of the Limitation Act would squarely applicable to the facts on hand, and hence the said suit is filed within the period of limitation.

**[11]** This Court has carefully considered section 19 of the said provision of the Limitation Act and the trial court has also not gone into the

aforesaid provision under Section 19 of the Limitation Act. The trial court has considered only section 14 of the Limitation Act which the appellant has no dispute that the said section 14 will not apply to the facts of this case. According to the appellant that on the facts of this case, section 19 of the Limitation Act will be the relevant provision to apply as the said suit is filed within the period of limitation. The said section 19 of the Act was not properly examined by the trial court and therefore, this Court is of the view that the learned counsel for the respondents also states that the section 19 of the Act was not discussed and no such finding was rendered, but only under Section 14 of the Limitation Act, the said decision was taken and dismissed the suit.

**[12]** The submissions of the appellant that under section 19 of the Limitation Act has not been considered by the court below, to entertain the suit that the same is not hit by law of limitation in proper prospective. In these circumstances, this Court has no hesitation to set aside the judgment and decree passed by the learned trial Court and remitted back to the Court below to decide the issues framed by the trial court under Section 19 of the Limitation Act. Since the aforesaid suit is filed by the appellant in the year 2017, therefore, this Court directed the trial court to dispose the said suit or any preliminary issue at the earliest within 6(six) months from the date of receipt of this order.

**[13]** In view of the above facts and circumstances, impugned order passed in Original (Money) Suit No.105 of 2017 dated 21.12.2019 is set aside and consequently MFA is allowed.

**[14]** It is made it clear that it is open for the trial court to take the preliminary issue to decide whether the said suit is barred under Section 19 of the Limitation Act.

**[15]** Registry is directed to send the original records if it is already received by the High Court within a period of three weeks from the date of receipt of copy of this order.

**CHIEF JUSTICE**

*John Kom*