

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

CRP(CRP.Art.227) No. 37 of 2018

Shri Sorokhaibam Dhiren Singh

Petitioner/s

Vrs.

Smt. Laishram Ningol Takhelmayum (O) Inaotombi @ Inaoton Devi

Respondent/s

BEFORE

**HON'BLE THE CHIEF JUSTICE MR. M. SUNDAR
(ORDER)**

17.12.2025

[1] Nucleus of the captioned CRP (Civil Revision Petition) is a Civil Suit being 'Original Suit No. 4 of 2015' on the file of 'the Court of Civil Judge(Sr. Division) No. II, Manipur East at Lamphelpat, Imphal'. This Suit shall be referred to as 'said suit' and this Court shall be referred to as a 'Trial Court' (both for the sake of convenience and clarity). The 'sole respondent' in the captioned CRP filed the said suit and therefore she shall be referred to as 'plaintiff' based on her rank in the Trial Court, likewise, the revision petitioner before this Court is the lone defendant in the suit and therefore the 'revision petitioner' in the captioned CRP shall be referred to as 'defendant', both for the sake of convenience.

[2] Said suit was filed with a prayer for declaration *inter alia* seeking a decree that the transaction between plaintiff and defendant vide a registered deed No. 1380 of 2003 on the file of Sub-Registrar Porompat is a mortgage deed. To be noted, this court is informed that the date of this deed is 16.10.2003. Other incidental and ancillary prayers have also been made. Defendant, on entering appearance, filed a written statement *inter alia* contending that the plaintiff has sold

the land in question to the defendant and is now contending to the contrary (several years later) that it is only a mortgage transaction. It may not be necessary to dilate more on facts *qua* main suit as captioned CRP is directed against 'an order dated 23.10.2017 made in Judl. Misc. Case No. 201 of 2017 in said suit' ('impugned order' for the sake of brevity). To be noted, this Judl. Misc. Case was taken out by the plaintiff *inter alia* under Order XI Rule 14 of the Code of Civil Procedure, 1908 (CPC) with a prayer to produce original of what according to the plaintiff is a kutchha deed which is also dated 16.10.2003. It is also to be noted that plaintiff has filed a photocopy of this kutchha deed as plaint document No. 7 along with the plaint. This application was resisted by the defendant primarily on the ground that there is no such document. A careful perusal of the written statement of the defendant in the Trial Court, more particularly, paragraph 4.1 thereat makes it clear that it is the stated position of the defendant that there is no such document (it has been gotten up by plaintiff for the purpose of the said suit) and therefore, the question of defendant possessing original of the same does not arise. The defendant is also contesting plaint document No. 7. The photocopy of plaint document No. 7 is the epicenter of the entire issue.

[3] As regards the Judl. Misc. Case *inter alia* with a prayer for production of original of afore-referred kutchha document, the same was resisted by the defendant on the ground that there is no such document.

[4] On the afore-referred rival contentions, the Trial Court made the impugned order primarily on the ground that plaintiff examined herself as PW1 but in the Cross examination, defendant has not put a single question to plaintiff

assailing the claim of the plaintiff that the original of afore-referred kutchha deed is in the custody of the defendant.

[5] The Trial Court has also proceeded on the basis of Mark X in Ext. A/5 which is a registered sale deed, registered as document No. 1380 on the file of Sub-Registrar, Porompat. The Trial Court has surmised that Mark X in the Ext. A/5 and a similar Mark X in the photocopy of the kutchha deed, in all probability, appears to be one and the same. The Trial Court has also proceeded on another conjecture i.e., that the signatures of the parties in the kutchha deed are seemingly similar qua Ext. A/5.

[6] Learned counsel for defendant who is revision petitioner submitted that the Trial Court ought to have embarked upon the exercise of ascertaining who is in possession of the original and under the normal circumstances, the beneficiary of the deed will be in possession of the original. Per contra, learned counsel for revision petitioner who is plaintiff in the Trial Court submitted that the averment in the plaint, more particularly, paragraph No. 3 has not been controverted by the defendant in the written statement. A careful perusal of the pleadings i.e., plaint and written statement as well as the application and the counter in Judl. Misc. Case No. 201 of 2017 brings to light that it has been the consistent case of the defendant that there is no such kutchha agreement deed dated 16.10.2003.

[7] On a careful consideration of the rival submissions and record before this Court, this Court finds that the Trial Court allowing the Judl. Misc. taken out by the plaintiff amounts to decreeing the suit as defendant is denying the very existence of such a document. This should be framed as an issue (to be noted, issues framed are not before this Court) and if an issue has already been framed,

the same has to be answered by the Trial Court in the main suit. Furthermore, as already alluded to supra, Trial Court has made the impugned order by going into the realm of surmises and conjectures as it has presumed that the signatures in Ext. A/5 and the photocopy of the kutchra deed are 'seemingly similar' and Mark X in the kutchra deed and Ext. A/5 are 'in all probability one and the same'. In any event, the Trial Court, after advertent to Section 61 of the Registration Act, has come to the conclusion that the execution of several documents between parties one after another may not necessarily be in continuation of the previously executed documents.

[8] In the light of the narrative, discussion and dispositive reasoning thus far, this Court finds it appropriate to dislodge the impugned order leaving open all questions regarding plaint document No. 7 i.e., Kutchra document dated 16.10.2003 which is purportedly an extension of Ext. A/5 sale deed.

[9] Ergo, as a sequitur, the following order is made:

- (i) The impugned order of the Trial Court being order dated 23.10.2017 in Judl. Misc. Case No. 201 of 2017 is set-aside;
- (ii) All questions surrounding plaint document No. 7 i.e., photocopy of kutchra deed dated 16.10.2003 are left open for the Trial Court to decide the same in the main suit on the basis of deposition, documents and pleadings;
- (iii) The impugned order being set-aside shall not be construed as expression of any opinion or view by this court on the merits of the main matter;

(iv) Axiomatic to earlier directive it is made clear that the Trial Court shall now proceed with the suit on its own merits and in accordance with law.

[10] Apropos, captioned CRP is allowed and impugned order dated 23.10.2017 in Judl. Misc. Case No. 201 of 2017 on the file of Court of the Civil Judge, Senior Division, Imphal East is set-aside. There shall be no order as to costs.

CHIEF JUSTICE

Indrajeet