

IN THE HIGH COURT OF MANIPUR
AT IMPHAL

MC(EI. Petn.) No. 25 of 2024
(Ref:- EI. Petn. No. 2 of 2022)

Thongam Shanti Singh, aged about 63 years, son of
(L) Th. Ibohal Singh, resident of Moirang Kiyam Leikai, P.O. &
P.S. Moirang, District – Bishnupur, Manipur – 795113.

... Applicant/ Respondent No. 1

-Versus-

1. Mairembam Prithviraj Singh @ Prithviraj, aged about 43
years, son of (L) M. Manindra Singh, resident of Moirang
Kiyam Leikai, P.O. & P.S. – Moirang, District – Bishnupur,
Manipur – 795113.

... Opposite Party/ Petitioner

2. Pukhrem Sharatchandra Singh, about 73 years, son of
(L) P. Koiremba Singh, resident of Phairembam Leikai,
Moirang, P.O. & P.S. – Moirang, District – Bishnupur,
Manipur – 795133.

***... Performa Opposite Parties/
Respondent No. 2.***

AND IN THE MATTER OF:
(In Election Petition No. 2 of 2022)

Mairembam Prithviraj Singh @ Prithviraj, aged about 43
years, son of (L) M. Manindra Singh, resident of Moirang
Kiyam Leikai, P.O. & P.S. – Moirang, District – Bishnupur,
Manipur – 795113.

... Petitioner

-Versus-

Thongam Shanti Singh, aged about 63 years, son of
(L) Th. Ibohal Singh, resident of Moirang Kiyam Leikai, P.O.
& P.S. Moirang, District – Bishnupur, Manipur – 795113.

Pukhrem Sharatchandra Singh, about 73 years, son of (L) P. Koiremba Singh, resident of Phairembam Leikai, Moirang, P.O. & P.S. – Moirang, District – Bishnupur, Manipur – 795133.

... Respondents

B E F O R E

HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

For the Applicant	:: Mr. N. Ibotombi, Senior Advocate asstd. by Mr. A. Rommel, Advocate
For the Respondents	:: Mr. Ajoy Pebam, Advocate & Mr. N. Zequeson, Advocate
Date of Hearing	:: 03-04-2025
Date of Order	:: 17-04-2025

O R D E R

[1] Heard Mr. N. Ibotombi, learned senior counsel assisted by Mr. A. Rommel, learned counsel appearing for the applicant; Mr. Ajoy Pebam, learned counsel appearing for the respondent No. 1 and Mr. N. Zequeson, learned counsel appearing for the respondent No. 2.

The present application had been filed with a prayer to grant leave to the applicant to produce and file originals and certified copies of the documents enclosed as Annexure – Z/22 to Z/31 in the present application in connection with election petition No. 2 of 2022.

[2] The case of the applicant is that on the basis of the pleadings of the contesting parties, this court had framed ten issues to be decided in the connected election petition and thereafter, examination of the PWs had already started and still continuing. The applicant, who is

the respondent No. 1 in the said connected election petition, stated that in order to substantiate and support his defence against the said election petition, he had already filed his written statement along with 21 (twenty one) documents marked as Annexure – Z/1 to Z/21 under a proper list on 22-07-2022. It is also the case of the applicant that except for the documents enclosed as Annexure – Z/5, Z/6, Z/10, Z/11, Z/14 to Z/21, all the other remaining documents are either originals or certified copies and that the documents marked as Annexure – Z/5, Z/6, Z/10, Z/11, Z/14 to Z/21 filed along with the written statement are only photostat copies as the applicant misplaced the originals and certified copies of the said documents due to shifting to his official quarter from his former residence.

[3] It is also the case of the applicant that recently by coincidence, he came across and discovered the originals and certified copies of the said documents enclosed as Annexure – Z/5, Z/6, Z/10, Z/11, Z/14 to Z/21 filed along with his written statement. The applicant also stated that he obtained certificate dated 17-10-2003 issued by the SDC, Moirang, original letter dated 23-11-2023 of the Registrar, Kanungo, DS & LR, Manipur, certified copy of the cancelled and un-cancelled Jamabandi dated 24-04-2024 issued by the SDC, Moirang, certified copy of the order dated 16-02-2024 passed by the SDO, Moirang, in connection with land under Patta No. 1005 (N), Dag No.

5669 having an area of 1.09 acre of Village No. 52-Moirang and certified copy of the order dated 16-02-2024 passed by the SDO, Moirang in connection the land under Patta No. 4723 (N) Dag No. 8443 having an area of 0.025 acre of Village No. 52-Moirang. The applicant also stated that all these documents are of recent origin and the same were not in existence when the applicant filed his written statement dated 22-07-2022.

[4] Mr. N. Ibotombi, learned senior counsel appearing for the applicant submitted that the aforesaid documents, which are originals and certified copies, will have material bearing on the point of controversy between the parties in the election petition and will throw more light in arriving at a just decision in the lis and that the production of the said documents enclosed as Annexure – Z/22 to Z/31 in the present application is highly necessary in order to enable the applicant to substantiate his averments made in the written statement and also to assist this court at his utmost level in arriving at a just and proper decision in the lis. It has also been stated that the applicant could not produce and file the said documents along with his written statement for the reasons given hereinabove and that no prejudice or injury will be caused to the election petitioner by the production and filing of the said originals and certified copies and by receiving the

same in evidence on behalf of the applicant at the time of hearing of the connected election petition.

[5] The learned senior counsel further submitted that in respect of some of the said documents, the applicant had already filed photostat copies and that the applicant also specifically stated/ pleaded all the material facts in his written statement in respect of the other remaining originals/ certified documents and that such documents are produced and filed by way of furnishing particulars of the materials facts pleaded by the applicant in his written statement. The learned senior counsel, accordingly, prays for granting leave to the applicant to produce and filed the said originals and certified documents enclosed as Annexure – Z/22 to Z/31 in the present application. In support of his contention, the learned senior counsel cited the following case laws:-

(a) (2005) 13 SCC 511 “Harkirat Singh Vs. Amrinder Singh”

wherein it has been held as under:

“51. A distinction between “material facts” and “particulars”, however, must not be overlooked. “Material facts” are primary or basic facts which must be pleaded by the plaintiff or by the defendant in support of the case set up by him either to prove his cause of action or defence. “Particulars”, on the other hand, are details in support of material facts pleaded by the party. They amplify, refine and embellish material facts by giving distinctive touch to the basic contours of a picture already drawn so as to make it full, more clear and more informative. “Particulars” thus ensure conduct of fair trial and would not take the opposite party by surprise.”

“52. All “material facts” must be pleaded by the party in support of the case set up by him. Since the object and purpose is to enable the opposite party to know the case he has to meet with, in the absence of pleading, a party cannot be allowed to lead evidence. Failure to state even a single material fact, hence, will entail dismissal of the suit or petition. Particulars, on the other hand, are the details of the case which is in the nature of evidence a party would be leading at the time of trial.”

(b) (2007) 3 SCC 617 “Virender Nath Gautam Vs. Satpal Singh & ors.” wherein it has been held as under:

- “34. A distinction between “material facts” and “particulars”, however, must not be overlooked. “Material facts” are primary or basic facts which must be pleaded by the plaintiff or by the defendant in support of the case set up by him either to prove his cause of action or defence. “Particulars”, on the other hand, are details in support of material facts pleaded by the party. They amplify, refine and embellish material facts by giving distinctive touch to the basic contours of a picture already drawn so as to make it full, more clear and more informative. “Particulars” thus ensure conduct of fair trial and would not take the opposite party by surprise.”**
- “35. All “material facts” must be pleaded by the party in support of the case set up by him. Since the object and purpose is to enable the opposite party to know the case he has to meet with, in the absence of pleading, a party cannot be allowed to lead evidence. Failure to state even a single material fact, hence, will entail dismissal of the suit or petition. Particulars, on the other hand, are the details of the case which is in the nature of evidence a party would be leading at the time of trial.”**
- “50. There is distinction between *facta probanda* (the facts required to be proved i.e. material facts) and *facta probantia* (the facts by means of which they are proved i.e. particulars or evidence). It is settled law that pleadings must contain only *facta probanda* and not *facta probantia*. The material facts on which the party relies for his claim are called *facta probanda* and they must be stated in the pleadings. But the facts or facts by means of which *facta probanda* (material facts) are proved and which are in the nature of *facta probantia* (particulars or evidence) need not be set out in the pleadings. They are not facts in issue, but only relevant facts required to be proved at the trial in order to establish the fact in issue.”**

[6] Mr. Ajoy Pebam, learned counsel appearing for the contesting respondent No. 1 and Mr. N. Zequeson, learned counsel appearing for the proforma respondent No. 2 did not raise any strong objection to the present application, however, both the counsel submitted that the applicant is trying to file the original and certified copy of the documents marked as Annexure – Z/22 to Z/31 after more than one year from the date of framing of issues with the aim and object of delaying the proceedings of the connected election petition. The learned counsel

submitted that adequate cost may be imposed on the applicant for causing delay in the proceeding of the connected election petition.

In response to the submission advanced by the learned counsel appearing for the parties, Mr. N. Ibotombi, learned senior counsel submitted that no delay has been caused due to filing of the present application, inasmuch as, the examination of the PWs is going on without any interruption and that no delay has been caused by the applicant by filing the present application.

[7] I have heard at length the submissions advanced by the learned counsel appearing for the parties and also carefully perused the materials available on record. On careful examination of the record, this court found that photostat copies of most of the documents enclosed as Annexure – Z/22 to Z/31 have already been filed by the applicant along with his written statement and that specific material facts have also been pleaded by the applicant in his written statement relating to some of the remaining originals / certified copies of the documents enclosed in the present application.

Taking into consideration the submissions advanced by the learned counsel appearing for the parties and keeping in view the above quoted principles of law laid down by the Hon'ble Apex court, this court is of the considered view that it will be in the interests of justice to grant leave to the applicant to produce and file the documents

enclosed as Annexure – Z/22 to Z/31 in the present application. Accordingly, the present application is allowed by granting leave to the applicant to produce and file the aforesaid documents.

Since no delay has been caused by the applicant by filing the present application, this court is not inclined to accept the submission advanced by the learned counsel appearing for the respondents and this court declined to impose any cost.

With the aforesaid observations and directions, the present application stands disposed of.

JUDGE

FR / NFR

Devananda