

JOHN
TELEN KOM

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Item No.6

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

CRP(C.R.P. Art.227)No.31 of 2016

Smt. Moirangthem Ningol Thounaojam ongbi Pusparani
Devi, aged about 56 years W/o Dr. Th. Naranbabu Singh
resident of Kangla Sangomshang Imphal East District
Manipur At present residing at Doctor's Colony, Quarter No.
Type V/22 Regional Institute of Medical Sciences Lamphel,
Imphal West District PO & PS Lamphel, Manipur.

Petitioner

Vs.

Km. Yurembam Inakhunbi Devi aged about 43 years D/o late
Y. Chandrahas Singh resident of Thangmeiband Lourungpurel
Leikai PO & PS Lamphel, District Imphal West, Manipur & 9
Ors.

Respondents

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

**ORDER
(Oral)**

24.04.2025

[1] Mr. S. Lokhendro, learned counsel, appears for the petitioner;
Mr. A. Golly, learned counsel, appears for respondent Nos.1 to 6 and Mr. S.
Kaminikumar, learned CGC, appears for respondent 8 & 10.

[2] The present revision petition has been filed against the dismissal
order dated 04.05.2016 passed by the Civil Judge (Junior Division), Imphal
West-I in Judl. Misc. No.140 of 2015.

[3] According to the petitioner, she has received the suit land through a registered gift deed bearing No.1277 of 2012 dated 06.06.2012 from her elder brother namely Moirangthem Tombi Singh and hence, the petitioner has filed instant Judl. Misc. Case No.140 of 2015 on the file of the Civil Judge(Junior Division), Imphal West-I to implead the applicant as party in the aforesaid suit. According to her, she is necessary party in the aforesaid suit as the gift deed has been executed in favour of the applicant and therefore, no prejudice will be cause to the respondents.

[4] Mr. A. Golly, learned counsel appearing for respondent Nos. 1 to 6 has strongly objected by stating that the first defendant is a party in the aforesaid suit namely Shri Oinam Hemanta Singh and Civil Judge(Junior Division), Imphal West-I has granted injunction order on 11.02.2005 in Judl. Misc. case No.45 of 2005 by restraining the defendant No.1 his men and privies from committing any act to change the nature of the suit land and also to alienate the suit land or any part thereof to any-body.

[5] According to the learned counsel appearing for the respondent Nos. 1 to 6, the aforesaid injunction has been in force and the first defendant has executed the sale deed in favour of the petitioner vide Regd. Deed of Sale being No.995 of 2009 dated 22.04.2009 and subsequently, Shri Moirangthem Tombi Singh, the aforesaid brother has executed the Gift deed in favour of the petitioner herein.

[6] According to the learned counsel of respondent Nos. 1 to 6, the aforesaid contention raised by the petitioner has been duly considered and it

has been rightly discussed by the Civil Judge(Junior Division), Imphal West-I and detailed order has been passed under Section 52 of Transfer of Property Act. Ordinarily, a pendent lite purchaser's application for impleadment is normally be allowed or considered liberally the reason being there is chances of the transferor having no more interest in the property may not properly defend the suit or may even collude with the plaintiff against the transferee. But on the facts of the case is concerned, injunction has already been granted by the learned trial court restraining the defendant No.1 committing any act to change the nature of the suit land and also to alienate the suit land or any part thereof to any-body. According to learned counsel appearing for respondent Nos.1 to 6, the aforesaid injunction order has been disobeyed by the defendant No.1 and executed the sale deed in favour of the petitioner's brother. Therefore, the trial court has rightly rejected the said application. Further, the learned counsel appearing for the respondents has relied upon the judgement of the Hon'ble Supreme Court reported in (1995) 6 SCC 50, *in the case of Surjit Singh & Ors. Vs. Harbans Singh & Ors.* the relevant para 4 is reproduced as follow:

"4. As said before, the assignment is by means of a registered deed. The assignment had taken place after the passing of the preliminary decree in which Pritam Singh has been allotted 1/3rd share. His right to property to that extent stood established. A decree relating to immovable property worth more than hundred rupees, if being assigned, was required to be registered. That has instantly been done. It is per se property, for it relates to the immovable property involved in the suit. It clearly and squarely fell within the ambit of the restraint order. In sum, it did not make any appreciable difference whether property per se had been alienated or a decree pertaining to that property. In defiance of the restraint order,

the alienation/assignment was made. If we were to let it go as such, it would defeat the ends of justice and the prevalent public policy. When the Court intends a particular state of affairs to exist while it is in seisin of a lis, that state of affairs is not only required to be maintained, but it is presumed to exist till the Courts orders otherwise. The Court, in these circumstances has the duty, as also the right, to treat the alienation/assignment as having not taken place at all for tis purposes. Once that is so, Pritam Singh and his assignees, respondents herein, cannot claim to be impleaded as parties on the basis of assignment. Therefore, the assignees-respondents could not have been impleaded by the trial court as parties to the suit, in disobedience of its orders. The principles of lis pendens are altogether on a different footing. We do not propose to examine their involvement presently. All what is emphasized is that the signees in the present facts and circumstances had no cause to be impleaded as parties to the suit. On that basis, there was no cause for going into the question of interpretation of paragraphs 13 & 14 of the settlement deed. The path treaded by the courts below was, in our view, out of their bounds. Unhesitatingly, we upset all the three orders of the courts below and reject the application of the assignees of rimpleadment under order 22 Rule 10 CPC.”

Further, the learned counsel appearing for respondent Nos.1-6 has relied upon the decision of Hon'ble Supreme Court in case of *H. Anjanappa & Ors. Vs. A. Prabhakar & Ors* passed in Civil Appeal Nos. 1180-1181 of 2025 and the relevant paras 57 & 58 are reproduced hereunder as:

“57. Having regard to the fact that the Respondent Nos. 1 and 2 respectively purchased the suit property during the pendency of the suit instituted for specific performance and that too, while the injunction against the original owner (transferor) was operating, the Respondent Nos. 1 and 2 respectively could not be said to have even made out any good case for grant of leave to appeal.

58. From a conspectus of all the aforesaid judgments, touching upon the present aspect, broadly, the following would emerge:

i. First, for the purpose of impleading a transferee pendente lite, the facts and circumstances should be gone into and basing on the necessary facts, the Court can permit such a party to come on record, either under Order I Rule 10 CPC or under Order XXII Rule 10 CPC, as a general principle; Page 34 of 35

ii. Secondly, a transferee pendente lite is not entitled to come on record as a matter of right; iii. Thirdly, there is no absolute rule that such a transferee pendente lite, with the leave of the Court should, in all cases, be allowed to come on record as a party;

iv. Fourthly, the impleadment of a transferee pendente lite would depend upon the nature of the suit and appreciation of the material available on record;

v. Fifthly, where a transferee pendente lite does not ask for leave to come on record, that would obviously be at his peril, and the suit may be improperly conducted by the plaintiff on record;

vi. Sixthly, merely because such transferee pendente lite does not come on record, the concept of him (transferee pendente lite) not being bound by the judgment does not arise and consequently he would be bound by the result of the litigation, though he remains unrepresented;

vii. Seventhly, the sale transaction pendente lite is hit by the provisions of Section 52 of the Transfer of Property Act; and,

viii. Eighthly, a transferee pendente lite, being an assignee of interest in the property, as envisaged under Order XXII Rule 10 CPC, can seek leave of the Court to come record on his own or at the instance of either party to the suit.”

[7] Considering the aforesaid judgement of the decisions of the Hon'ble Supreme Court and the facts and circumstances of the case where the applicant's brother has executed Gift Deed on 06.06.2012 in favour of the petitioner. The said execution of Gift Deed by the petitioner's brother is at the time when the injunction order is in force and considering Section 52 of the

Transfer of Property Act, the trial court has rightly come to the conclusion that the applicant cannot be added as a party defendant in the suit.

[8] Considering the facts of the case and on perusal of the order passed by the learned trial court, this Court does not required for any interference with the said order of the trial Court and consequently, the present Civil Revision petition is dismissed.

[9] It is made clear that since the said suit is of the year 2005, the learned Civil Judge Junior Division, Imphal West-I is directed to dispose of the said suit as early as possibly within a period of 6(six) months from the date of receipt of a copy of this order.

CHIEF JUSTICE

John Kom