KH. JOSHUA MARING

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Sl. No. 1-2

IN THE HIGH COURT OF MANIPUR
AT IMPHAL

CRP Art.227 No.44 of 2025
With
MC(CRP Art.227) No.74 of 2025

Shri Hajarimayum Priyogopal Sharma

Petitioner

Vs.

Shri Gurumayum Laxmanjilla alias Jilla Sharma and Ors.

Respondents

BEFORE
HON'BLE THE CHIEF JUSTICE MR. M. SUNDAR

(ORDER)

18.09.2025.

Captioned main Civil Revision Petition ['CRP' for the sake of brevity] has been filed under Article 227, seeking revision of an order dated 21.07.2025 made in Judicial Misc. Case No.41 of 2025 in Original (Probate) Suit No.1 of 2025 on the file of the Court of District and Sessions Judge, Imphal West, (hereinafter 'Trial Court' for sake of convenience and clarity).

2. Judicial Misc. Case No.41 of 2025 shall be referred to as 'said application' also for the sake of convenience and clarity.

3. Sufficed to write that main suit is one seeking probate *qua* a testament (will) dated 05.04.1950.

4. The plaintiff in the main suit took out said application with two prayers, one to recall PW 8 and the other to examine PW 9.

5. The Trial Court noted the opposition to the said application on the technical ground that two prayers cannot be combined and sought for in one petition, but to decide as hypothetical proceeded to the latter, permitted PW 8 to be recalled but negated the prayer to examine PW 9.

6. The revision petitioner has filed the captioned CRP stating that he is aggrieved by that portion of the impugned order in and by which examination of PW 9 has been negated.

7. Before proceeding further, this Court deems it appropriate to write that as regards recalling PW 8, the same has attained the quietus as it has not been carried in revision and on the contrary, PW 8 has already been recalled, examined and deposition has been recorded.

8. In the light of aforementioned**,** the sole point on which the revision has gravitated is that PW 9 will be able to speak about the testament and the testate.

9. This Court wanted to know the age of the PW 9 and this Court is informed by learned senior counsel Mr. N. Kumarjit, on instructions from Mr. Th. Monish, learned counsel on record that the age of PW 9 is 75 years now. This means that PW 9 was born in the year 1950. The

testament is dated 05.04.1950. Therefore, the plea that PW 9 would speak about testament is clearly a non-starter and is to say the list a damp squib. As regards speaking about the stature, the probate suit is at a very advanced stage, part heard, deposition completed, arguments being heard and sufficient evidence (oral and documentary) has been let in and interdicting the proceedings at this juncture would be counter-productive.

10. Be that as it may, axiomatically this Court is of the considered view that the examination of PW 9 is not going to contribute to any kind of enlightenment *qua* the probate proceedings in the light of the dispositive reasoning set out supra. It is sufficed to write that the determinant for proving a testament in probate proceedings are well settled and in this regard, it is deemed appropriate to record the stated position of learned counsel for petitioner that PW 9 is admittedly not one of the admissible witnesses and obviously he could not have been one because he was born in the same year in which the testament was executed.

11. A careful perusal of the impugned order of the trial court brings to light that there is no infirmity warranting much less interference in exercise of power under Article 227 of the constitution.

12. Apropos, the sequitur is, captioned CRP fails and same is dismissed.

13. Consequently, captioned MC therein also perishes with the CRP and the same is also dismissed.

14. There shall be no order as cost.

CHIEF JUSTICE

Ab. Surjit

This Court informed that the main suit was dismissed for default/non-prosecution on ….. , the two plaintiffs who are respondent Nos.1 & 2(Principle respondents) captioned CRP have been taken out for restoration, the application No…… that the same is listed before the trial Court on 24.09.2025. Let the matter stands over by four weeks.
List on 16.10.2025.
Interim order be haid……..