

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

CRP(CRP Art. 227) No. 3 of 2025

Nameirakpam Ongbi Manglembi Devi

Petitioner

Vs.

Haomom Merina Devi

Respondent

***Clubbed with MC(CRP(C.R.P. Art. 227)) 53 of 2025
With MC(CRP(C.R.P. Art. 227)) No. 76 of 2025***

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

ORDER

16.10.2025

[1] This common order will now dispose of the captioned 'civil revision petition' ('CRP' for the sake of brevity) and the captioned two 'miscellaneous cases' ('MCs' for the sake of brevity) thereat.

[2] Factual matrix in a nutshell is, that a suit in Original (Money) Suit No. 68 of 2022 was filed on the file of Civil Judge (Senior) Division, Imphal West, Manipur; that this Civil Suit/Money Suit shall be referred to as 'said suit' and the court in which it is pending shall be referred to as 'trial court' (both for the sake of convenience and clarity); that the said suit was filed by the sole respondent in captioned CRP i.e., Haomom Merina Devi and she shall from hereon and henceforth be referred to as 'plaintiff' based on her rank in the trial court for the sake of convenience and clarity; that in the said suit, one Nameirakpam Koireng Singh is the sole defendant and he shall be referred to

as 'defendant' based on his rank in the trial court for the sake of convenience and clarity; that in the said suit, recovery of Rs. 25,00,000/- (Rupees twenty-five lakhs) together with interest is the plea though the prayer talks about declaration for a sum of rupees twenty-five lakhs and decree for recovery of the same; that pending suit, sole defendant's wife, Smt. Nameirakpam Ongbi Manglembi Devi filed Judicial Misc. Case No. 427 of 2022 in the said suit in the trial court *inter-alia* invoking the provisions of Order XXXII of the 'Code of Civil Procedure, 1908' ('CPC' for the sake of brevity) with a prayer to appoint her as guardian for the sole defendant who is her spouse and this was primarily on the ground that sole defendant is disabled, bedridden and has suffered a stroke; that this Judicial Misc. Case No. 427 of 2022 shall be referred to as 'guardian application' for the sake of convenience and clarity; that alongwith the guardian application, sole defendant's spouse, Smt. Nameirakpam Ongbi Manglembi Devi took out another application, namely, Judicial Misc. Case No. 428 of 2022 which is under proviso to Order VIII Rule 1 of CPC as the written statement was not filed within 30 (thirty) days from the date of service of suit; that the guardian application was dismissed for default on 16.05.2024 as the counsel did not appear; that thereafter, an application in Judl. Misc. Case No. 414 of 2024 had been filed on 28.05.2024 seeking restoration of the guardian application which was dismissed for default on 16.05.2024; that this restoration application namely, Judl. Misc. Case No. 414 of 2024 was allowed by the trial court on terms (cost of Rs. 500/-) on 03.04.2025; that in the interregnum, Judl. Misc. Case No. 428 of 2022 filed by Smt. Nameirakpam Ongbi Manglembi Devi (sole defendant's spouse) came to be dismissed by the

trial court in and by an order dated 30.07.2024 by a simple one line order saying that she is not a party to the suit; that this 30.07.2024 order shall be referred to as 'impugned order' as the same is assailed in the captioned CRP by Smt. Nameirakpam Ongbi Manglembi Devi; that, the sole plaintiff is the respondent in the captioned CRP and the sole plaintiff has been duly served; that the sole plaintiff has entered appearance through counsel; that the CRP is before this Court and the same is being heard out.

[3] Mr. Lourembam Nongthang Ngamba, learned counsel for Smt. Nameirakpam Ongbi Manglembi Devi for defendant and Mr. RK Macklin Singh, learned counsel for Haomom Merina Devi for plaintiff are before this Court, this Court with the consent of learned counsel on both sides, took up the main CRP, two MCs thereat and had the same heard out.

[4] The entire matter turns on a very short point and that short point is, while an application for restoration of the guardian application was pending, the impugned order came to be made by saying that the person seeking appointment as guardian is not a party to the suit. To be noted, in the factual matrix supra, undisputed obtaining position that the application for restoration of the guardian application in Judl. Misc. Case No. 414 of 2024 had been filed on 28.05.2024 and that the same was ultimately allowed on 03.04.2025 has been captured. This means that the restoration application was pending as on the date of the impugned order namely, 30.07.2024. Therefore, the trial court ought to have decided the guardian application first and thereafter decided Judl. Misc. Case No. 428 of 2022 taken out by Smt. Nameirakpam Ongbi

Manglembi Devi. On the contrary, the trial court has dismissed Judl. Misc. Case No. 428 of 2022 on the simple point that Smt. Nameirakpam Ongbi Manglembi Devi is not a party to the suit while guardian application seeking her appointment as guardian for sole defendant was pending restoration. This means that the trial court ought to have decided the restoration of guardian application first (to be noted, guardian application has since been restored) and thereafter decided Judl. Misc. Case No. 428 of 2022, but as the same has not been done, this Court deems it appropriate to set aside the impugned order on this short point without expressing any view on the merits of the matter be it the main suit or the guardian application or for that matter in Judl. Misc. Case No. 428 of 2022.

[5] To be noted, as regards powers of superintendence of the High Court under Article 227, the same can be exercised even when a wrong procedure is adopted by the trial court. This is one such case.

[6] In the light of the narrative discussions and dispositive reasoning thus far, the following order is made :

- i) impugned order being order dated 30.07.2024 made in Judl. Misc. Case 428 of 2022 in Original (Money) Suit No. 68 of 2022 on the file of the court of Civil Judge (Senior) Division, Imphal West, Manipur is set aside;
- ii) the impugned order is set aside solely for the purpose of enabling the trial court to adopt the proper procedure and correct sequence and this means that this Court has not

expressed any view or opinion on the merits of the matter *qua* main suit, guardian application or Judl. Misc. Case No. 428 of 2022;

- iii) the trial court will now do well to take up the guardian application namely, Judl. Misc. Case No. 427 of 2022 (which has since been restored), hear both sides and pass an order on its own merits and in accordance with law;
- iv) After deciding guardian application in the aforesaid manner, the trial court shall take up Judl. Misc. Case No. 428 of 2022 and decide the same also on its own merits and in accordance with law taking into account the verdict returned by the trial court in guardian application in Judl. Misc. Case No. 427 of 2022;
- v) the trial court will do well to expedite the matter as it is a money suit of the year 2022.

[7] Captioned main CRP disposed of in the aforesaid manner, with the aforesaid observations and directions. Consequently, captioned two MCs thereat are also disposed of as closed. There shall be no order as to costs.

CHIEF JUSTICE

Sushil