

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

**CRP(CRP.Art.227) No.52 of 2025
With
MC(CRP(CRP.Art.227) No.90 of 2025**

Smt. Kongkham Monorama Devi

Petitioner/s

Vs.

Smt. Soram Muhini Devi

Respondent/s

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

(ORDER)

04.11.2025.

Captioned 'Civil Revision Petition' ('CRP' for the sake of brevity) has been presented in this Court on 03.11.2025 under Article 227 of the Constitution of India.

2. The order sought to be revised is order dated '26.09.2025' made in Judicial Misc.Case No.326 of 2022 in Original (Money) Suit No.35 of 2022 on the file of Court of Civil Judge (Senior Division), Imphal West. This 26.09.2025 order sought to be revised and the Court which made the order shall be referred to as 'impugned order' and 'said Trial Court' respectively for the sake of convenience and clarity.

3. Short facts imperative for appreciating instant order shows of other details and particulars are the revision petitioner in captioned CRP is the lone defendant in Original Money Suit No.35 of 2022 on the file of the said Trial Court that the suit is a money suit claiming Rs.18,00,000/- with future interest on the foot of promissory note dated 20.03.2021 and a money receipt; that the suit has been filed by the sole respondent in the captioned CRP and suit has been filed under Order XXXVII of the 'Code of Civil Procedure, 1908' ('CPC' for the sake of brevity); that the suit is therefore a summary suit; that the petitioner took out an application dated 31.05.2022 seeking leave to defend; that in this leave to defend application, the petitioner in her capacity as sole defendant in the suit in the said Trial Court admitted a portion of the suit claim i.e., Rs.10,00,000/- but disputed Rs.8,00,000/-; that thereafter the plaintiff in the said Trial Court i.e., respondent before this Court filed a response opposing the leave to defend plea; that after full contest the said Trial Court made the impugned order directing the CRP petitioner to deposit the admitted portion of the suit claim i.e., Rs.10,00,000/- within 45 days from the date of order; that 45 days from the date of the impugned order would elapse on 10.11.2025; that seeking revision of the impugned order, captioned CRP has been filed.

4. Mr. N. Jotendro, learned senior counsel appearing on behalf of Mr. Abdul Baquee, counsel on record for the revision petitioner submitted that the revision petitioner is a government servant and therefore, the request is to pay the admitted sum of Rs.10,00,000/- in monthly installment of Rs.10,000/- each.

5. This Court carefully considered the case file, the impugned order and the fair submission made by the learned senior counsel. After due consideration, this Court is of the considered view that the captioned CRP does not pass muster in the admission board and deserves to be dismissed. The reasons are as follows:

(i). There was an amendment to CPC in 1977, to be précised on and from 01.02.1977. Post amendment, there was a overhaul of Rule 3 of Order XXXVII which inter-alia two provisos Sub Rule 5 therein. The second proviso to Sub Rule 5 of Rule 3 of Order XXXVII mandates that leave to defend in a summary suit shall not be granted unless the amount admitted to be due is deposited by the defendant in Court.. Amended Order XXXVII Rule 3 Sub-Rule 5 together with two provisos thereat reads as follows:

‘(5) The defendant may, at any time within ten days from the service of such summons for judgment, by affidavit or otherwise disclosing such facts as may be deemed sufficient to entitle him to defend, apply on such summons for leave to defend such suit, and leave to defend may be granted to him unconditionally or upon such terms as may appear to the Court or Judge to be just:

Provided that leave to defend shall not be refused unless the Court is satisfied that the facts disclosed by the defendant do not indicate that he has a substantial defence to raise or that the defence intended to be put up by the defendant is frivolous or vexatious:

Provided further that, where a part of the amount claimed by the plaintiff is admitted by the defendant to be due from him, leave to defend the suit shall not be granted unless the amount so admitted to be due is deposited by the defendant in Court.'

(underlying and double underlying made by this Court for ease of reference)

A careful perusal of the amended Sub-Rule 5 of Rule 3 of Order XXXVII makes it clear that there is a bar on said Trial Court granting unconditional leave when the defendant admits a portion/part of the suit claim, the reason is the second proviso has a negative import as makes it clear that leave 'shall not be granted' unless defendant deposits the admitted amount.

(ii). As regards the afore-referred amended Sub Rule 5, Hon'ble Supreme Court considered the same in **Southern Sales and Services and Other vs. Sauermil. Ch Design and Handles** reported in (2008) 14 SCC 457. In **Southern Sales and Services And Other**, a conditional order was made and the same was assailed in the Hon'ble Supreme Court. Hon'ble Supreme Court after considering the amendment to CPC and more particularly amendment to Rule 3 confirmed the conditional order and made it clear that grant of leave to defend in such cases should necessarily be conditional and the

condition should be qua the entire admitted portion of the suit claim.

(iii). As regards the disputed part of suit claim namely Rs. 8,00,000/- the defendant has got benefit of unconditional leave. As regard the grant of leave to defend the lead cases are **Mechelec Engineers & Manufacturers Vs. Basic Equipment Corporation** reported in **(1976) 4 SCC 687**, **IDBI Trustship Services Limited Vs. Hubtwon Limited** reported in **(2017) 1 SCC 568** and **B.L. Kashyap and Sons Limited Vs. JMS Steels and Power Corporation and Another** reported in **(2022) SCC 294**. The Hon'ble Supreme Court considered the five conditions in **Mechelec Engineering in IDBI Trustship** which held that **Mechelec Engineer's** five postulates stand superseded in the wake of amendment to Rule 3 of Order XXXVII but the core principle remains the same qua grant of leave to defend. Be that as it may, in **B.L. Kashyap** was made clear that the approach with regards to leave to defend applications should not be one of denial being the rule and the grant being an exception. In the case of hand the said Trial Court has followed these principles as regard grant of leave for the contested portion of the suit land.'

6. In the light of the narrative thus far, discussion and dispositive reasoning, this Court has no hesitation in writing that the captioned CRP does not pass muster in the admission board and the same is dismissed.

7. Consequently, captioned Misc.case also perishes along with main CRP and the same is also dismissed. There shall be no order as to costs.

CHIEF JUSTICE

Ab. Surjit