



Serial No.11
Daily List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WA No.16/2025

Date of Order :12.06.2025

Smti. Sushila Devi Saraf

..... Appellant

Vs.

1. Sri Amit Saraf

2. Sri Samit Saraf

3. Sri Binit Saraf

4. The Syiem of Hima Myllem and Durbar, Myllem Syiemship, Mawkhar Main Road, Shillong-793001.

5. The State of Meghalaya, represented by the IG, CID, State of Meghalaya, Shillong.

..... Respondents

Coram:

Hon'ble Mr. Justice I.P. Mukerji, Chief Justice

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Appellant

: Mr. A. Goyal, Adv with
Mr. A. Choudhury, Adv

For the Respondents

: Mr. E. Lalsangluaia Adv for R/1-3 vice
Mr. Philemon Nongbri, Adv
Mr. R.K. Synrem, Adv for R/4

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| i) | Whether approved for reporting in Law journals etc.: | Yes/No |
| ii) | Whether approved for publication in press: | Yes/No |

Note: For proper public information and transparency, any media reporting this judgment is directed to mention the composition of the bench by name of judges, while reporting this judgment/order.



ORDER: (per the Hon'ble, the Chief Justice) (Oral)

There is substance in this appeal.

We do not hesitate to observe that some confusion was created before the learned single judge.

The question in the writ related to legality of grant of the subject Patta No.113 of 2024. It was in favour of the appellant herein. She was the respondent No.2 in the writ. The first respondent was the local authority, the Syiem of Hima Myllem and Durbar, Mawkhar Main Road, Shillong.

The respondent No.1 through counsel consented to the Patta being adjudged void and being set aside.

It appears that the learned Advocate engaged by the appellant kept quiet, neither supporting nor opposing the order proposed to be passed.

On that basis the learned single judge by the impugned judgment and order dated 5th December, 2024 granted the said relief.

The person affected by this order is the appellant. Her case was not presented at all before the learned single judge.

Today, learned counsel for the appellant makes the following submissions:

- (i) The writ application was not maintainable inasmuch as there was existence of a complete alternative remedy in the Khasi Syiemship



(Administration of Justice) Order, 1950. This court ought not to have entertained the writ application.

(ii) Secondly, the assertion that the writ petitioners/respondent Nos.1 to 3 were not heard is completely erroneous. There was no breach of the principle of natural justice. This submission was made in the alternative in case the court proposed to exercise its writ jurisdiction rejecting the first contention.

What is most material is that a valuable right of the appellant has been extinguished without consideration of her case.

In that view of the matter, we set aside the impugned judgment and order dated 5th December, 2024. We direct that the Writ Petition (C) No.337 of 2024 be heard afresh, considering the point of maintainability and jurisdiction of the court first and thereafter the merits of the matter, if required, as early as the business of the learned single judge permits.

In view of the above, the appeal is allowed.

(W. Diengdoh)
Judge

(I.P. Mukerji)
Chief Justice