



Serial No. 22
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

CRP No.16 of 2024

Date of Order: 04.04.2025

The Shillong Muslim Union, represented by its
General Secretary, Eid-Gah, Laban, Shillong.

..... **Petitioner**

-VERSUS-

Md. Munshi Ali Sonari @ Munna Ali (since deceased),
Represented by his legal representatives

1. Smti. Zahida Begum
2. Shri. Arif Ali
3. Shri. Taufique Ali

All residents of Room No.5, Basement Floor,
The Shillong Muslim Union Guest House Complex,
Quinton Road, Police Bazar, Shillong.

..... **Respondents**

Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner : Mr. S. Pandit, Adv

For the Respondents : Mr. N. Syngkon, Adv with
Ms. L. Phanjom, Adv (R:1)

(ORAL)

Heard Mr. S. Pandit, learned counsel appearing for the petitioner
and also Mr. N. Syngkon, learned counsel appearing for the respondent
No.1.



None appeared for the respondent Nos. 2 – 3 despite service of notice upon them.

This revision petition has been filed by the petitioner assailing the order dated 29.07.2024, passed by the learned Assistant District Judge, Shillong in Title Execution Case No.1 (H) of 2024 by which the proceeding of the execution case was stayed until further order.

The Title Suit No. 35 (H) of 2014 was filed by the petitioner seeking eviction of the respondents from the suit premises. The suit was dismissed on 24.11.2021. An appeal vide T.C.A. No. 1 (H) of 2021 was preferred against the order of dismissal and the learned Appellate Court decreed the suit in favor of the petitioner by judgment and decree dated 02.05.2024. As the respondents did not vacate the suit premises, the petitioner filed the Execution Case No. 1 (H) of 2024 before the executing court and the order dated 09.07.2024 was passed allowing the execution of the decree and the petitioner was directed to take necessary steps. In the meantime, the respondents herein filed an application before the executing court seeking stay of the execution proceeding on the ground that a review application was filed before the court which passed the decree and the learned executing court by order dated 29.07.2024 stayed the execution proceeding until further order. Being aggrieved, the petitioner has approached this Court by this revision petition challenging the order dated 29.07.2024.

The learned counsel for the petitioner has contended that the executing Court could not have stayed the execution proceeding by impugned order dated 29.07.2024. He submits that the executing court, while passing the impugned order has failed to appreciate the provision of Order 21 Rule 26 CPC and erroneously stayed the execution proceeding.



He further submits that the executing court miserably failed to take into consideration the fact that the respondents had already approached the Court which passed the decree by filing a review application and no interim order was passed. He submits that the impugned order, therefore, cannot be sustained in law and liable to be interfered with.

The learned counsel appearing for the respondent No.1, on the other hand, contends that the present revision petition before this Court is not maintainable as the order under challenge is only an interlocutory order. He further submits that the execution proceeding has not been closed and the petitioner should have approached the executing Court before approaching this Court by instant petition.

From the submission made by the learned counsels appearing for the parties, it is clear that the execution proceedings in Execution Case No. 1(H) of 2024 is not closed. The proceeding has been stayed by the impugned order dated 29.07.2024 of the executing court and not by the court before which the review application has been filed by the respondents. As the executing court has the power to stay the execution proceedings only for a limited period of time in terms of Order 21 Rule 26 CPC, this Court at this juncture, without going into the issue as to whether the impugned order is an interlocutory order or not, deems it appropriate to dispose of this revision petition by giving liberty to the petitioner to approach the executing court seeking vacation of the order dated 29.07.2024 passed in Execution Case No.1 (H) of 2024. In the event the petitioner approaches the executing court by an application seeking vacation of the order dated 29.07.2024, the learned executing court shall take up and decide the same and pass appropriate order in accordance with law, more particularly in terms of Order 21 Rule 26 CPC



at the earliest keeping in mind that executing proceedings are not meant to be kept pending except in accordance with law.

With the above, this revision petition stands disposed of.

Judge

Meghalaya
04.04.2025
"Shrity"

