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

**RSA No. 10 of 2017 with
MC(RSA) No. 4 of 2025 with
MC(RSA) No. 7 of 2026**

Tongbram Shantikumar Singh

.... Appellant

- Versus -

Smt. Mongjam (O) Memcha Devi

.... Respondent

B E F O R E
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

ORDER

05.05.2026

[1] Heard Mr. T. Rajendra, learned sr. counsel assisted by Mr. Vikash Sharma, learned counsel for the appellant and Mr. S. Premchand, learned counsel for the respondent.

[2] Vide order dated 13.09.2017, this Court had already framed 3(three) issues and the same is reproduced below:

- I. Whether the First Appellate Court was right in deciding Issue No. 1 that the plaintiff is the owner in possession of the suit land only on the finding of possession?*
- II. Whether a decree for permanent injunction in terms of Section 38 of the Specific Relief Act can be passed only on the basis of possession?*
- III. Whether in the absence of title documents, entry in the Patta/Jamabandi is sufficient to confer title of the suit land?*

[3] The appellant/defendant filed an application being MC(RSA) No. 4 of 2025 for framing an additional substantial question of law in addition to the above 3(three) issues already framed by order dated 13.09.2017 and the proposed additional issue which reads as follows:

“Whether the suit of the Plaintiff in her name only without impleading a minor necessary party is defective and validly presented?”

[4] The learned sr. counsel for the appellant/defendant submits that Trial Court has framed issue no. 4 as “Whether the suit suffers from defect of parties or not?”. The Trial Court decided the issue in favor of the appellant/defendant herein on the ground that the identity of the defendant is not cleared. However, the First Appellant Court reversed the finding holding that the suit does not suffer for any defect of the parties as the identity of the defendant against whom the injunction is made for clearly mentioned.

[5] The learned sr. counsel for the appellant/defendant pointed out that the whole case of the respondents/plaintiff is that the land is inherited by her minor son and her name is recorded in the Jamabandi and defect of the plaintiff parties was never considered by the Court. In the circumstances, the additional issue regarding defect in the plaintiff is raised in the present application.

[6] On the other hand, Mr. S. Premchand, learned counsel for the respondent/plaintiff submits that there is no defect in the parties as the plaintiff is the recorded pattadar and the suit was filed by her and this question has already been decided by the First Appellant Court. The respondent/plaintiff also filed an application being MC(RSA) No. 7 of 2026 seeking the leave for filing reply to the rejoinder affidavit filed by the appellant/plaintiff.

[7] This Court has perused the materials on record. Even though issue no. 4 is about the defect in the parties, both the original and First Appellate Courts decided the matter restricted to the defect in the defendant and the defect in the plaintiff was never considered. This Court is of the view that defect in plaintiff is to be decided in the present case. Accordingly, additional substantial question of law framed as -

“Whether the suit of the Plaintiff in her name only without impleading a minor necessary party is defective and validly presented?”.

[8] Mr. S. Premchand, learned counsel for the respondent/plaintiff submits that he reserves the right to argue at the time of hearing that the additional question framed is not a substantial question of law in terms of the proviso to Sub-Section 5 (100) of the C.P.C.

[9] With the above observations, the MC(RSA) No. 4 of 2025 and MC(RSA) No. 7 of 2026 are disposed of.

[10] List the main RSA No. 10 of 2017 for hearing on 29.05.2026.

JUDGE

Thoiba