



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

CRP(C.R.P. Art.227) No. 41 of 2026

1. Mr. Anthony Chorei aged about 44 years S/o Late D. Chorei, resident of Ward No. III, Tamenglong District Headquarter, P.O. & P.S. Tamenglong, Tamenglong District, Manipur PIN 795141.
2. Shri Huthumang Kamei, aged about 60 years, S/o Late Chaliuak Kamei resident of Ward No. IV, Medical Colony, P.O. & P.S. Tamenglong District Headquarter, Tamenglong District, Manipur - 795141.
3. Mr. Jikthanlung Kamei aged about 40 years, S/o Huthumang Kamei resident of Ward No. IV, Medical Colony, Tamenglong District Headquarter, P.O. & P.S. Tamenglong, Manipur - 795141.

...Petitioners

- Versus -

Mr. D. Jack aged about 32 years S/o Late D. Chorei resident of Ward No. III, Tamenglong District Headquarter, P.O. & P.S. Tamenglong, Tamenglong District, Manipur PIN 795141.

...Respondent

With

MC(CRP(CRP Art. 227)) No. 66 of 2026

1. Mr. Anthony Chorei aged about 44 years S/o Late D. Chorei, resident of Ward No. III, Tamenglong District Headquarter, P.O. & P.S. Tamenglong, Tamenglong District, Manipur PIN 795141.
2. Shri Huthumang Kamei, aged about 60 years, S/o Late Chaliuak Kamei resident of Ward No. IV, Medical Colony, P.O. & P.S. Tamenglong District Headquarter, Tamenglong District, Manipur - 795141.
3. Mr. Jikthanlung Kamei aged about 40 years, S/o Huthumang Kamei resident of Ward No. IV, Medical Colony, Tamenglong District Headquarter, P.O. & P.S. Tamenglong, Manipur - 795141.



...Applicants

- Versus -

Mr. D. Jack aged about 32 years S/o Late D. Chorei resident of Ward No. III, Tamenglong District Headquarter, P.O. & P.S. Tamenglong, Tamenglong District, Manipur PIN 795141.

...Respondent

B E F O R E

HON'BLE THE CHIEF JUSTICE MR. M. SUNDAR

For the revision petitioners : Mr. Th. Ibohal, Sr. Advocate,
instructed by Ms. B. Karishma
Sharma, Advocate

Date of order : **27-08-2026**

ORDER
(ORAL)

[1] Mr. Th. Ibohal, learned Senior Advocate instructed by Ms. B. Karishma Sharma, counsel on record for revision petitioners is before this Court. To be noted, captioned civil revision petition and caption miscellaneous case thereat are in admission Board.

[2] The following abbreviations/short forms have been used in this order (for the sake of brevity, convenience and clarity):

Sl. No.	Abbreviation/Short Form/other short references	Full Form/Expansion
1.	CPC	The Code of Civil Procedure, 1908 (Act V of 1908)
2.	trial court	The Court of Civil Judge (Senior Division) Tamenglong at Lamphelpat, Imphal
3.	first appellate court	The Court of District Judge, Tamenglong, Manipur
4.	suit property	Plot of land admeasuring 60 x 70



Sl. No.	Abbreviation/Short Form/other short references	Full Form/Expansion
		feet situate at Ward No. IV, Tamenglong HQs, Tamenglong District, Manipur
5.	CRP	Civil Revision Petition
6.	MC	Miscellaneous case
7.	said suit	Original Suit No. 3 of 2022 on the file of Trial Court
8.	limitation act	The Limitation Act, 1963 (36 of 1963)
9.	impugned order	09-07-2026 order made by first appellate court in Misc. Civil Appeal Case No. 3 of 2025 (allowing the appeal)

[3] Factual matrix in a nutshell i.e., short facts shorn of elaboration and details not imperative for appreciating instant order are that one, Mr. D. Chorei died on 18-12-1991 leaving behind legal heirs and to be noted, as amongst his legal heirs first revision petitioner, Mr. Anthony Chorei is elder brother of sole respondent, Mr. D. Jack; that the sole respondent in captioned CRP filed a civil suit i.e., said suit *inter alia* arraying his elder brother, Anthony Chorei as 1st defendant and the other legal heirs as 2nd and 3rd defendants; that the suit was filed with prayers for declaration of title *qua* suit property, quashing and setting aside of mutation order dated 09-07-2015 made by jurisdictional revenue authority *qua* suit property besides prayers for quashing and setting aside agreement/s for sale/sale deed, perpetual injunction and other ancillary orders; that, the said suit was instituted in the trial court on 18-06-2022; that the defendants filed written statement dated 16-12-2022 and completed pleadings; that on completion



of pleadings, trial court framed four issues on 06-03-2024 and one of the four issues is whether the said suit is barred by law of limitation; that post framing of issues, defendants took out Judl. Misc. Case No. 13 of 2024 *inter alia* under Order VII Rule 11(d) of CPC seeking rejection of plaint primarily on the sole ground that the said suit is barred by limitation as it is a declaratory suit and it has been filed beyond three years from the date on which right to sue first accrued; that to put it differently, said suit is not in conformity with Article 58 of Part III of First Division (suits) of the Schedule to Limitation Act; that prior to filing of said suit, plaintiff in the trial court (sole respondent in captioned CRP) approached this Court by way of a writ petition being WP(C) No. 697 of 2018, *inter alia* assailing 09-07-2015 mutation order *qua* suit property made by jurisdictional revenue authority; that this writ petition, after resorting to mediation, came to be disposed of by this Court in and *vide* an order dated 19-03-2020; that, to be noted, in mediation, sole respondent went before the mediation centre for sittings but the revision petitioners did not turn up and that is the reason why mediation did not get kick started and became a non-starter; that post disposal of writ petition by this Court on 19-03-2020 said suit was instituted by lone respondent in captioned CRP on 18-06-2022 in trial court; that in such circumstances, rejection of plaint application being Judl. Misc. Case No. 13 of 2024 was taken out by the defendants (post completion of pleadings and framing of issues about which there is allusion in earlier part of this factual matrix) and the trial court after full contest, in and *vide* order dated 21-08-2024 allowed the rejection of plaint application and rejected the plaint *qua*



said suit; Assailing this rejection of plaint order of the trial court dated 21-08-2024, plaintiff carried the matter in appeal to first appellate court, *vide* Misc. Civil Appeal Case No. 3 of 2025 and the first appellate court in and *vide* order dated 09-07-2026, after full contest, allowed the appeal, set aside the order of trial court and directed the trial court to continue with the trial of said suit, inter-alia making it clear that issue of limitation in said suit is a mixed question of fact and law and directing trial court to decide the issue of limitation according to law {To be noted, limitation is one of the four issues framed by trial court as alluded to in earlier part of this factual matrix}; that assailing the impugned order, captioned CRP has been presented in this Court on 14-08-2026; that defects were rectified on 24-08-2026 and captioned CRP along with captioned MC thereat is on Board before this Court today.

[4] Mr. Th. Ibohal, learned Senior Advocate, notwithstanding myriad grounds in the memorandum of grounds of civil revision petition (CRP), predicated his campaign against the impugned order on two main points and they are as follows:

- i) the trial court has not drawn up a decree and therefore, an appeal under Section 96 to the first appellate court is impermissible; and
- ii) ii) the question of limitation is a serious question and the same has to be decided by this Court.

[5] This Court perused the case file and carefully considered the



submissions of learned senior counsel.

[6] This Court now proceeds to consider the afore-referred two points one after the other and set out its discussion and dispositive reasoning on the points.

[7] As regards first point, the impugned order very clearly mentions that decree has not been drawn up. Nonetheless, the appeal being Misc. Civil Appeal Case No. 3 of 2025 has been presented under Section 96 read with Section 151 of CPC. On a demurer, if it cannot be a regular first appeal under Section 96 of CPC, the first appellate court is not denuded of its powers to test the rejection of plaint order dated 21-08-2024 made by the trial court. This means that at the highest, first point means that it is a case of quoting wrong provision of law. Law is well settled that quoting wrong provision of law, will not prove fatal and it will not denude a Court of its powers if the powers are otherwise traceable to any other provision of law. In this view of the matter, the first point urged does not find favour with this Court.

[8] As regards the second point i.e., that limitation is a very important point, there can be no two opinions about the same. The limitation act *vide* Section 3 makes it clear that bar of limitation will result in dismissal of a suit, even if it has not been set up as a defence by the defendant. Be that as it may, as regards limitation, the sanctus principle is remedy is barred but right is not extinguished. In this view of the matter, limitation should certainly be examined. In the case at hand, what is of relevance is, as already alluded to



supra, pleadings were completed and the trial court has framed as many as four issues and the four issues framed by the trial court are as follows :—

- ‘1) Whether the Schedule Suit Land described in the Plaint and the Schedule Land-B described in the written statement are one and the same land or not?*
- 2) Whether there was a family settlement of the properties left by D. Chorei and if so, whether the Plaintiff received the Suit Land as his shared property in the said settlement or not?*
- 3) Whether the suit is barred by law of limitation?*
- 4) Whether the Plaintiff is entitled to the reliefs claimed?’*

A careful perusal of the aforesaid four issues makes it clear that issue No. 3 is whether the suit is barred by limitation? The impugned order makes it clear that the trial court will now decide the question of limitation in accordance with law. The reason i.e., dispositive reasoning given by the first appellate court in the impugned order is that limitation is a mixed question of law and fact. It is also been made clear that plaintiff (sole respondent in captioned CRP) may be entitled to the benefit of Section 14 of the Limitation Act as the plaintiff filed WP(C) No. 697 of 2018 in this Court, in 2018 itself, even if 09-07-2015 mutation order of jurisdictional revenue authority is taken as reckoning date. The writ petition came to be disposed of by this Court (after resorting to mediation) only on 19-03-2020. The suit was presented in trial court on 18-06-2022. Therefore, whether the plaintiff would be entitled to benefit of Section 14 of the Limitation Act is clearly a mixed question of fact and law as rightly observed by the first appellate court. The first appellate court has not returned a verdict on whether the plaintiff is entitled



to the benefit of Section 14 of the Limitation Act. It has been made clear that the same shall be decided by the trial court in accordance with law. This Court is of the considered view that the question as to whether mutation order (09.07.2015) is reckoning date is also a mixed question of fact of law as it is a case of computing claims between siblings for father's property and a mutation order does not confer title.

[9] There is another way of looking at the captioned matter. Captioned matter is an exception to the age-old adage '*blood is thicker than water*'. The reason is siblings are adversaries *qua* immovable property of father i.e., suit property. In such cases, though the suit is one for declaration of title and for quashing the orders more particularly the order (mutation order) dated 09-07-2015 made by the jurisdictional revenue authority, can be construed as a partition suit though partition is not the prayer. In partition suits as much as there are no plaintiffs and no defendants there is no limitation but this Court expresses no view or opinion on the same as it is for the trial court to go into all these accepts while examining the question of limitation, more particularly, the question as to whether the plaintiff is entitled to the benefit of exclusion of time vide Section 14 of the Limitation Act.

[10] This Court carefully perused the order of the first appellate court. The first appellate court has made it clear (as part of the dispositive reasoning) that the trial court has allowed the rejection of the plaint application primarily on the basis of pleadings contained in paragraph No. 14 of the plaint which reads as follows:—



'14. That the cause of action arises when the Defendant No. 1 fraudulently, by misrepresentation and suppressing material facts and documents obtained mutation order dated 09.07.2015 in his name pertaining to the suit land. The cause of action further arose when the Hon'ble High Court of Manipur vide its judgment and order dated 19.03.2020 passed in W.P (C) 697 of 2018 directed the Plaintiff and Defendant No. 1 to appear before the Member Secretary, Manipur State Legal Services Authority. The cause of action further arose on 30.03.2022 when the Additional Member Secretary, Manipur State Legal Services Authority intimated the Assistant Registrar - I, High Court of Manipur, Mantripukhri, Imphal, Manipur about the unsuccessful of mediation., The cause of action is still continuing within the territorial jurisdiction of this Hon'ble Court. The suit is within the period of limitation.'

A careful perusal of the aforesaid pleadings makes it clear that the plaintiff has pleaded that the cause of action is constituted not merely by the 09-07-2015 mutation order made by the jurisdictional revenue authority but the plaintiff has also specifically referred to order dated 19-03-2020 made by this Court in WP(C) No. 697 of 2018. Therefore, the plaint has to be read as a whole to test a rejection of plaint application. The test for a rejection of plaint application is well settled. It is uncontroverted averments in the plaint without adding or subtracting and without looking into any extraneous materials sole exception being admitted documents. Therefore, even if paragraph No. 14 and the plaint as a whole are looked into, this Court is of the considered view that limitation is not a case for rejection of plaint but examination by trial court as a mixed question of law and facts. One of the



reasons in this regard is the classical distinction between sub-clause (d) and other sub-clauses of Rule 11 of Order VII of CPC. Unlike clause (a) of Order VII Rule 11, which deals with non-disclosure of a cause of action and sub clauses (b) and (c) merely say sub clause (d) which deals with suit appearing to be barred by any law makes it clear that the suit should appear to be barred by any law from *'the statement in the plaint'*. This means that the classical difference between sub-clauses (a) to (c) on side and sub clause (d) of Rule 11 of Order VII of CPC is that while it need not be evident from a statement in the plaint, as regards clause (d) alone it has been made clear that the bar should appear from the statement in the plaint. This Court is of the considered view that paragraph No. 14 of the plaint on which the trial court has predicated its verdict pertaining to the rejection of plaint on a plaint when read without adding or subtracting is not a case of being barred by limitation *vide* Article 58 of Part III of First Division (suits) of Schedule to the Limitation Act. The reason is, paragraph No. 14 refers to the time spent by the plaintiff i.e., the sole respondent in this Court *vide* WP(C) No. 697 of 2018 where the plaintiff had challenged the mutation order made by the jurisdictional revenue authority being a mutation order dated 09-07-2015.

[11] In the light of the narration, discussion and dispositive reasoning thus far, this Court has no hesitation in writing that it comes to the conclusion that captioned CRP does not pass muster in the admission Board. However, before writing the operative portion of instant order, though obvious, for the sake of specificity, this Court deems it appropriate to make it clear that the trial court shall now test all the issues more particularly, issue No. 3 which



reads '*whether the suit is barred by law of limitation?*' on its own merits and in accordance with law untrammelled either by the order of the first appellate court (impugned order) or by instant order made by this Court. In this regard, it is made clear that all questions are left open for all the litigants to be raised when issue No. 3 is tested by the Trial Court.

[12] *Ergo*, the *sequitur* is, captioned CRP fails to pass muster in the admission Board and the same is dismissed. Consequently, captioned MC thereat also perishes with captioned CRP and the same is also dismissed. There shall be no order as to costs.

CHIEF JUSTICE

FR/NFR

Victoria/Indrajeet

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