

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

CRP(CRP.Art.227) No. 42 of 2017

1. Smt. Laishram Ningol Sujita Devi, aged about 58 years, D/o (Late) L. Nimai Singh of Sagolband Moirang Leirak, P.O. Imphal, P.S. Lamphel, Imphal West District, Manipur (W/o Ksh. Dhirendra Singh of Chingamakha Oinam Leirak, Opp. Manipur College, P.O. Imphal, P.S. Singjamei, Imphal West District, Manipur).
2. Laishram Saratchandra @ Sana, aged about 52 years, S/o (Late) L. Nimai Singh of Keishamthong Maning Longjam Leikai, P.O. & P.S. Imphal, Imphal West District, Manipur.

.....Petitioners

Vs.

1. Laishram Modhu @ Modhuchandra Singh, aged about 56 years, S/o (Late) Laishram Nimai Singh, a resident of Second floor of the 'JMJ' Shopping Complex, Paona Bazar, P.O. Imphal, P.S. City, Imphal West District, Manipur (now deceased represented by his legal heirs).
 - (i) Smt. Laishram (O) Kamala Devi, aged about 61 years, W/o (Late) Laishram Modhu @ Modhuchandra Singh now residing at 'JMJ' Shopping Complex, Paona Bazar, P.O. Imphal, P.S. City, Imphal West District, Manipur.
 - (ii) Laishram (N) Longjam (O) Kavita Devi, aged about 39 years, W/o L. Ibotombi Singh, a resident of Singjamei Mayengbam Leikai, P.O. & P.S. Singjamei, Imphal West District, Manipur.
 - (iii) Laishram Mickey, aged about 35 years, S/o (Late) Laishram Modhu @ Modhuchandra Singh, a resident of 'JMJ' Shopping Complex, Paona Bazar,

P.O. Imphal, P.S. City, Imphal West District, Manipur.

- (iv) Laishram Karisma Devi, aged about 29 years, S/o (Late) Laishram Modhu @ Modhuchandra Singh now residing at 'JMJ' Shopping Complex, Paona Bazar, P.O. Imphal, P.S. City, Imphal West District, Manipur.
- 2. Laishram Micky, aged about 29 years, S/o (Late) Laishram Modhu @ Modhuchandrra Singh, a resident of Second Floor of the 'JMJ' Shopping Complex, Paona Bazar, P.O. Imphal, P.S. City, Imphal West District, Manipur.
- 3. Laishram Jugol Singh, aged about 20 years, S/o (Late) Bikramcha Singh, now residing at Second Floor of the 'JMJ' Shopping Complex, Paona Bazar, P.O. Imphal, P.S. City, Imphal West District, Manipur.

... Respondents

- 4. Laishram Ibechaobi Devi, aged about 82 years, W/o (L) Laishram Nimai Singh, residing at Second Floor of the 'JMJ' Shopping Complex, Paona Bazar, P.O. Imphal P.S. City, Imphal West District, Manipur.
- 5. Laishram (N) R.K. (O) Chandrasakhi Devi, aged about 63 years, D/o (L) Laishram Nimai Singh, a resident of Keishamthong Top Leirak, P.O. & P.S. Imphal, Imphal West District, Manipur(now deceased represented by her legal heirs).
 - (i) Smt. Sagolshem (Ongbi) R.K. (Ningol) Sunita Devi, aged about 45 years, W/o Sagolshem Ibohanbi Singh, resident of Keishamthong Moirang Ningthou Leirak, P.O. & P.S. Imphal, Imphal West District, Manipur.
 - (ii) Smt. Nongmeikapam (Ongbi) R.K. (Ningol) Rajlakshmi Devi, aged about 43 years, W/o Nongmeikapam Budhichandra Singh, resident of Keishamthong Moirang Ningthou Leirak, P.O. & P.S. Imphal, Imphal West District, Manipur.

- (iii) Smt. Okram (Ongbi) R.K. (Ningol) Tamphasana Devi, aged about 40 years, W/o Okram Ratnesh Singh, resident of Kwakeithel Moirang Purel, P.O. & P.S. Imphal, Imphal West District, Manipur.
 - (iv) Shri Rajkumar Indubhushan Singh, aged about 38 years, S/o Late Laishram (N) R.K. (O) Chandrasakhi Devi, resident of Keishamthong Top Leirak, P.O. & P.S. Imphal, Imphal West District, Manipur.
6. Laishram (N) Jandhabi Devi, aged about 60 years, D/o (Late) Laishram Nimai Singh, a resident of Second Floor of the 'JMJ' Shopping Complex, Paona Bazar, P.O. Imphal, P.S. City, Imphal West District, Manipur.
 7. Laishram (N) Binashakhi Devi, aged about 58 years, D/o (L) Laishram Nimai Singh, a resident of Sagolband Bijoy Govinda, P.O. & P.S. Imphal, Imphal West District, Manipur.

... Proforma Respondents

**With
CRP(CRP.Art.227) No. 39 of 2017**

1. Smt. Laishram Ningol Sujita Devi, aged about 58 years, D/o (Late) L. Nimai Singh of Sagolband Moirang Leirak, P.O. Imphal, P.S. Lamphel, Imphal West District, Manipur (W/o Ksh. Dhirendra Singh of Chingamakha Oinam Leirak, Opp. Manipur College, P.O. Imphal, P.S. Singjamei, Imphal West District, Manipur).
2. Laishram Saratchandra @ Sana, aged about 52 years, S/o (Late) L. Nimai Singh of Keishamthong Maning Longjam Leikai, P.O. & P.S. Imphal, Imphal West District, Manipur.

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Bazar, P.O. Imphal, P.S. City, Imphal West District, Manipur (now deceased represented by his legal heirs).

- (i) Smt. Laishram (O) Kamala Devi, aged about 61 years, W/o (Late) Laishram Modhu @ Modhuchandra Singh now residing at 'JMJ' Shopping Complex, Paona Bazar, P.O. Imphal, P.S. City, Imphal West District, Manipur.
 - (ii) Laishram (N) Longjam (O) Kavita Devi, aged about 39 years, W/o L. Ibotombi Singh, a resident of Singjamei Mayengbam Leikai, P.O. & P.S. Singjamei, Imphal West District, Manipur.
 - (iii) Laishram Mickey, aged about 35 years, S/o (Late) Laishram Modhu @ Modhuchandra Singh, a resident of 'JMJ' Shopping Complex, Paona Bazar, P.O. Imphal, P.S. City, Imphal West District, Manipur.
 - (iv) Laishram Karisma Devi, aged about 29 years, S/o (Late) Laishram Modhu @ Modhuchandra Singh now residing at 'JMJ' Shopping Complex, Paona Bazar, P.O. Imphal, P.S. City, Imphal West District, Manipur.
2. Laishram Micky, aged about 29 years, S/o (Late) Laishram Modhu @ Modhuchandra Singh, a resident of Second Floor of the 'JMJ' Shopping Complex, Paona Bazar, P.O. Imphal, P.S. City, Imphal West District, Manipur.
3. Laishram Jugol Singh, aged about 20 years, S/o (Late) Bikramcha Singh, now residing at Second Floor of the 'JMJ' Shopping Complex, Paona Bazar, P.O. Imphal, P.S. City, Imphal West District, Manipur.

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4. Laishram Ibechaobi Devi, aged about 82 years, W/o (L) Laishram Nimai Singh, residing at Second Floor of the 'JMJ' Shopping Complex, Paona Bazar, P.O. Imphal P.S. City, Imphal West District, Manipur.

5. Laishram (N) R.K. (O) Chandrasakhi Devi, aged about 63 years, D/o (L) Laishram Nimai Singh, a resident of Keishamthong Top Leirak, P.O. & P.S. Imphal, Imphal West District, Manipur(now deceased represented by her legal heirs).
- (i) Smt. Sagolshem (Ongbi) R.K. (Ningol) Sunita Devi, aged about 45 years, W/o Sagolshem Ibohanbi Singh, resident of Keishamthong Moirang Ningthou Leirak, P.O. & P.S. Imphal, Imphal West District, Manipur.
 - (ii) Smt. Nongmeikapam (Ongbi) R.K. (Ningol) Rajlakshmi Devi, aged about 43 years, W/o Nongmeikapam Budhichandra Singh, resident of Keishamthong Moirang Ningthou Leirak, P.O. & P.S. Imphal, Imphal West District, Manipur.
 - (iii) Smt. Okram (Ongbi) R.K. (Ningol) Tamphasana Devi, aged about 40 years, W/o Okram Ratnesh Singh, resident of Kwakeithel Moirang Purel, P.O. & P.S. Imphal, Imphal West District, Manipur.
 - (iv) Shri Rajkumar Indubhushan Singh, aged about 38 years, S/o(Late) Smt. Laishram (N) R.K. (O) Chandrasakhi Devi, resident of Keishamthong Top Leirak, P.O. & P.S. Imphal, Imphal West District, Manipur.
6. Laishram (N) Jandhabi Devi, aged about 60 years, D/o (Late) Laishram Nimai Singh, a resident of Second Floor of the 'JMJ' Shopping Complex, Paona Bazar, P.O. Imphal, P.S. City, Imphal West District, Manipur.
7. Laishram (N) Binashakhi Devi, aged about 58 years, D/o (L) Laishram Nimai Singh, a resident of Sagolband Bijoy Govinda, P.O. & P.S. Imphal, Imphal West District, Manipur.

... Proforma Respondents

**With
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1. Smt. Laishram Ningol Sujita Devi, aged about 58 years, D/o (Late) L. Nimai Singh of Sagolband Moirang Leirak, P.O. Imphal, P.S. Lamphel, Imphal West District, Manipur (W/o Ksh. Dhirendra Singh of Chingamakha Oinam Leirak, Opp. Manipur College, P.O. Imphal, P.S. Singjamei, Imphal West District, Manipur).
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 - (ii) Laishram (N) Longjam (O) Kavita Devi, aged about 39 years, W/o L. Ibotombi Singh, a resident of Singjamei Mayengbam Leikai, P.O. & P.S. Singjamei, Imphal West District, Manipur.
 - (iii) Laishram Mickey, aged about 35 years, S/o (Late) Laishram Modhu @ Modhuchandra Singh, a resident of 'JMJ' Shopping Complex, Paona Bazar, P.O. Imphal, P.S. City, Imphal West District, Manipur.

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 - (iii) Smt. Okram (Ongbi) R.K. (Ningol) Tamphasana Devi, aged about 40 years, W/o Okram Ratnesh

Singh, resident of Kwakeithel Moirang Purel, P.O. & P.S. Imphal, Imphal West District, Manipur.

- (iv) Shri Rajkumar Indubhushan Singh, aged about 38 years, S/o Late Smt. Laishram (N) R.K. (O) Chandrasakhi Devi, resident of Keishamthong Top Leirak, P.O. & P.S. Imphal, Imphal West District, Manipur.
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... Proforma Respondents

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

For revision petitioners	Mr. L. Shashibhushan, Sr. Advocate instructed by Mr. Md. Fakaruddin, Advocate.
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For respondent Nos. 1, 2 & 3	Mr. R.K. Milan, Advocate along with Ms. H. Jeena, Advocate.
For respondent Nos. 4 to 7	Mr. N. Ibotombi, Senior Advocate instructed by Mr. N. Leo, Advocate.
Date of Judgment & Order	26.05.2026

JUDGMENT AND ORDER
(ORAL)

[1] The following abbreviations/short forms have been used in this order:

Sl. No.	Abbreviation/Short Form/other references for the sake of brevity/convenience and/or clarity	Full Form/Expansion
1.	CRP	Civil Revision Petition
2	CRPs	Civil Revision Petitions
3.	said original Trial Court	Court of Civil Judge (Senior Division) No. 1, Manipur East at Lamphelpat, Imphal
4.	said Trial Court	Court of Additional District Judge (FTC), Manipur East
5.	FTC	Fast Track Court
6.	LRs	Legal Representatives
7.	LR	Legal Representative
8.	impugned orders	Orders of said Trial Court all dated 30.08.2017 in (1) JUDL.MISC.CASE NO. 69 of 2011/1 OF 2014, (2) JUDL.MISC.CASE NO. 68/2011/3 OF 2014, (3) JUDL.MISC.CASE NO. 77/2011/6 OF 2014, (4) JUDL.MISC.CASE NO. 26/2011/5 OF 2014.
9.	CoD	Condonation of Delay
10.	Judl. Misc. Case	Judicial Miscellaneous Case

11.	CPC	The Code of Civil Procedure, 1908
12.	Limitation Act	The Limitation Act, 1963 (36 of 1963)
13.	D1	first defendant
14.	D2	second defendant
15.	D3	third defendant
16.	said declaratory suit	Original(Declaratory) Suit No. 22 of 2006 in said original Trial Court which was subsequently transferred to said Trial Court and renumbered as Original(Declaratory) Suit No. 22/06/07/2010/3/2011/1/2014
17.	ADR	Alternate Dispute Resolution

[2] This common order will govern the captioned 4(four) CRPs and dispose of the captioned 4(four) CRPs.

[3] This Court is reminded of the age-old adage 'blood is thicker' and that the adage may not be without exceptions as the case at hand appears to be one such exception.

[4] Nearly two decades ago, to be precise, on 27.09.2006, a suit in Original(Declaratory) Suit No. 22 of 2006(said declaratory suit) was presented in said original Trial Court by six siblings (five sisters and one brother), all children of late L. Nimai Singh, arraying one sibling (brother) as D1, D1's son as D2 and D1's grandson (son of predeceased son) as D3.

[5] Afore-referred said declaratory suit has multiple limbs of prayer including declarations, partition and injunctions. Suffice to say that the declarations, partition and injunctions sought pertain to immovable

properties. This Court refrains from dilating more on facts, as the captioned CRPs turn on two simple CoD applications and two consequential/sequitur orders.

[6] Factual matrix, in a nutshell, containing essential facts imperative for appreciating instant order (shorn of elaboration and details) is that said declaratory suit was presented in said original Trial Court on 27.09.2006; that pending suit, D1 died and the date of demise is 15.03.2007; that the plaintiffs changed their counsel, with one set of counsel appearing for plaintiff Nos. 1 to 4 and another set of counsel appearing for plaintiff Nos. 5 & 6; that plaintiffs Nos. 5 & 6 took out Judl. Misc. Case No. 85 of 2007 (filed on 10.07.2007) in said original Trial Court with a prayer to bring on record the four LRs of deceased D1; that it is to be noted that two of the four LRs were already on record as D2 & D3 but instead of filing a memo for recording D2 & D3 as LRs the LR application includes their names also; that thereafter on 16.11.2007, plaintiff Nos. 5 & 6 filed another Judl. Misc. Case being Judl. Misc. No. 145 of 2007 with a prayer to amend Judl. Misc. Case No. 85 of 2007; that thereafter, the jurisdictional District Court made an order dated 28.10.2009 transferring said declaratory suit from said original Trial Court to said Trial Court; that the jurisdictional District Court thereafter made another order dated 29.01.2010 directing transfer of entire suit files and records from said original Trial Court to said Trial Court and in and vide this order the jurisdictional District Court fixed 26.02.2010 as the date for appearance of

parties before said Trial Court; that according to plaintiff Nos. 5 & 6, who are revision petitioners before this Court, plaintiffs 5 and 6 went over to the said Trial Court on 26.02.2010 but they were informed that records had not been received; that thereafter, said Trial Court made an order dated 26.03.2010 stating that there was no appearance on behalf of the plaintiffs but as there was a correction/alteration in the date of appearance, issued notice to plaintiffs directing them to appear on 26.04.2010; that it is the case of plaintiff Nos. 5 & 6 that they did not receive any notice from said Trial Court; that the plaintiffs 5 & 6 did not appear before said Trial Court on 26.04.2010 as according to the plaintiffs 5 & 6 they were not aware of this date; that thereafter, on 18.06.2011, the two applications taken out by plaintiff Nos. 5 & 6 viz., Judl. Misc. Case No. 85 of 2007 and Judl. Misc. Case No. 145 of 2007 for brining on record LR of deceased D1 and for amendment of the LR application respectively were dismissed for default; that according to plaintiff Nos. 5 & 6, they gained knowledge about this dismissal of their applications (dismissal for default) only on 21.11.2011; that according to plaintiffs, immediately thereafter, i.e., on 23.11.2011, plaintiff Nos. 5 & 6 took out two Judl. Misc. Cases being Judl. Misc. Case No. 68 of 2011 & Judl. Misc. Case No. 69 of 2011 with prayers for restoration of the LR application and amendment application which were dismissed for default on 18.06.2011; that thereafter, realizing that the restoration applications had not been filed within the prescribed period of limitation though it is well within the period of limitation if date of knowledge (21.11.2011) is taken as the reckoning

date, as a matter of abundant caution plaintiff Nos. 5 & 6 filed Judl. Misc. Case No. 77/2011/6 of 2014 and Judl. Misc. Case No. 26/2011/5 of 2014 with prayers for CoD (if any) qua restoration applications filed on 23.11.2011, these CoD applications came to be dismissed by the said Trial Court in and vide impugned orders which also disposed of applications sought to be restored as 'closed' owing to dismissal of CoD applications; that the aggrieved plaintiff Nos. 5 & 6 have filed captioned CRPs arraying defendant Nos. 1 to 3 as respondents and co-plaintiffs 1 to 4 as proforma respondents.

[7] In the hearing today, Mr. L. Shashibushan, learned Senior Advocate instructed by Mr. Md. Fakaruddin, learned counsel on record for the revision petitioners, Mr. R.K. Milan, learned counsel along with Ms. H. Jeena, learned counsel for the defendants in the Trial Court (respondent Nos.1 to 3 in captioned CRPs) and Mr. Leo N., learned counsel led by Mr. N. Ibotombi, learned Senior Advocate for co-plaintiff Nos. 1 to 4 in the Trial Court (respondent Nos. 4 to 7 in captioned CRPs) are before this Court.

[8] This Court heard out all the afore-referred learned counsel and learned senior counsel.

[9] A careful perusal of the impugned order brings to light that said Trial Court has dismissed the CoD applications on two grounds. One ground is, the counsel for parties were present on 21.01.2010, they were directed to appear before the said Trial Court on 26.03.2010 (directed by the jurisdictional District Judge) but on 26.03.2010 neither the plaintiffs

nor their counsel were before the said Trial Court. The second reason is, in the CoD applications, the applicants (plaintiff Nos. 5 & 6) have not mentioned the number of days sought to be condoned and the prayer merely seeks CoD, if any.

[10] Mr. L. Shashibushan, learned Senior Advocate for the revision petitioners, submitted that the restoration applications were filed well within time, if date of knowledge, i.e., 21.11.2011, is taken as the reckoning date and the CoD applications were filed only as a matter of abundant caution and this is the reason why the CoD prayers merely seek CoD, if any, without going into the details of exact numbers of days sought to be condoned. To be noted, this is regarding the second ground on which CoD applications were dismissed. As regards the first ground on which CoD applications were dismissed, learned senior counsel for revision petitioners submitted that neither the plaintiffs nor the plaintiffs' counsel appeared before the said Trial Court on 26.03.2010 but on 26.03.2010, the said Trial Court made an order clearly recording that the counsel for defendants is present but the plaintiffs or plaintiffs' counsel are not before the Court and directed notice to be issued to plaintiffs requiring them to appear on 26.04.2010 on the ground that there is an alteration/correction in the earlier order dated 29.01.2010 regarding the date of appearance. Learned senior counsel pointed out that there is no mention about this 26.03.2010 order in the impugned order. It is also his emphatic say that notice to plaintiffs envisaged by the 26.03.2010 order was never received

by the plaintiffs. A scanned reproduction of this 26.03.2010 order made by said Trial Court is as follows:

26.3.2010. Vide letter No.CJSD(1)ME/2010/90 dated 26.3.2010 of the Id.Civil Judge (Sr.Divn)No.1,Manipur East, this case is received from the file of the Id.Civil Judge (Sr Divn)No.1,Manipur East for further proceeding/ disposal.

Register it as ~~Jud.~~Misc case

D.S. 207/10.

(served to defendant in person. Now appears on behalf

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the plaintiff, inform the direction of court dt. 29.1.17 reference, to I had some alteration/correction in order dt. 29.1.10 relating to date of appearance.

After notice be issued to the plaintiff requiring them to appear on 26.4.10.

Adj. District Judge
East Manipal Subj. No. 1, East
(Fast Track Court), Manipur E

[11] Mr. R.K. Milan, learned counsel for Respondent Nos. 1 to 3 (defendants before said Trial Court) submitted that the CoD applications are predicated on the averment that the CoD applicants came to know about the 18.06.2011 dismissal for default orders only on 21.11.2011 (on going over to said Trial Court and checking the records) but they have not produced any evidence or deposed to establish that 21.11.2011 is the date of knowledge qua CoD applicants. The second point raised by Mr. R.K. Milan, learned counsel for Respondent Nos. 1 to 3 (defendants before said Trial Court) is paragraph Nos. 15 & 16 of the CRP make allegations against the learned Presiding Officer of the said Trial Court and such allegations should not be entertained without a separate sworn affidavit.

[12] As regards proforma respondent Nos. 4 to 7 (plaintiff Nos. 1 to 4 in said Trial Court), Mr. N. Ibotombi, learned senior counsel submitted that plaintiff Nos. 1 to 4 no doubt did not take out restoration applications/CoD applications as they would anyway sink or sail with plaintiff Nos. 5 & 6.

[13] In the aforesaid backdrop of rival contentions, this Court carefully examined the case files, copies of the records received from the said Trial Court and also considered the arguments of all the learned counsel.

[14] The first point turns on plaintiff Nos. 1 to 4 not taking out applications. In this regard, reverting to the prayers in the Trial Court, as already alluded to supra, one of the prayers is for partition in equal shares.

As regards partition suits, there are no plaintiffs or defendants. The dominus litis concept does not apply to partition suits. Though the said suit is not a typical partition suit, as partition is one of the prayers, the dominus litis concept will not apply.

[15] To be noted, the parties are coparcener/siblings and children/grandchild of one of the siblings. Be that as it may, the submission that plaintiff Nos. 1 to 4 will sink or sail with plaintiff Nos. 5 & 6 is acceptable, as the applications are for brining on record LRs of deceased D1, amendment to the LR application, dismissal of the same for default, restoration and CoD qua restoration. This answers the first point as regards plaintiff Nos. 1 to 4 not having filed applications.

[16] This takes this Court to the second point i.e., the point that turns on whether 21.11.2011 is the date of knowledge of dismissal for default. If 21.11.2011 is taken as reckoning date by accepting that the same is the date of knowledge of the CoD applications, CoD is really not necessary. However, CoD has been filed albeit as a matter of abundant caution, the same has resulted in the impugned orders and the impugned orders have been assailed in captioned CRPs. This Article 227 Court exercising supervisory powers is of the considered view that it is really not necessary to go into proving 21.11.2011 to be the date of knowledge, as even if 18.06.2011, being the date on which the applications were dismissed for default, is taken as the reckoning date, 30 days therefrom elapsed on 18.07.2011 and the restoration applications were filed on

23.11.2011, which means that the delay sought to be condoned is barely 127 days that too in seeking restoration of innocuous applications for bringing on record undisputed LRs of D1 (who is none other than blood brother/sibling of plaintiffs) and an amendment to LR application, more so when these two applications were dismissed for default in the circumstances about which there is allusion elsewhere supra in this order. This Court now proceeds on the basis that there is a CoD application and the impugned order has been made. This puts an end to and douses the arguments predicated on date of knowledge i.e., 21.11.2011 being true.

[17] This takes this Article 227 Court to CoD. In a CoD application, ideally the number of days sought to be condoned should be set out with clarity and specificity and there can be no two opinions on this point. Nonetheless, given the peculiar facts and circumstances of the case, the close blood relationship of the parties and the nature of the suit i.e., one of the limbs of the suit being partition, this Court makes a mild exception and exercising supervisory jurisdiction under Article 227, computes the number of days delay sought to be condoned. As already alluded to in the earlier part of this order, the number of days sought to be condoned is 127 days. As regards 127 days delay, the case of the CoD applicants that they did not receive notice from the said Trial Court about the appearance on 26.04.2010 pursuant to said Trial Court order dated 26.03.2010 has neither been disputed nor controverted. This means that there is nothing to demonstrate that the plaintiffs were not aware that 26.04.2010 is the

date fixed for their appearance. This adequately explains non-appearance of plaintiffs/plaintiffs' counsel in said Trial Court on 18.06.2011 when the LR and amendment applications came to be dismissed for default. Absence of knowledge of date of hearing and any knowledge later in a suit of this nature is sufficient cause within the meaning of Section 5 of the Limitation Act for CoD, more so for condonation of 127 days delay in the light of innocuous applications i.e., applications to bring on record undisputed LRs of D1 who died pending suit and application for amending LR application. As the application for brining LRs on record is not only innocuous but imperative too, 127 days delay certainly deserves to be condoned.

[18] This takes this Court to the last point raised by Mr. R.K. Milan, learned counsel for Respondent Nos. 1 to 3 (defendants before said Trial Court) i.e., that paragraph Nos. 15 & 16 of the CRP made allegations against learned Presiding Officer of said Trial Court. Mr. Md. Fakaruddin, learned counsel on record for the CRP petitioners, expressed profound regret for the contents of paragraph Nos.15 & 16. After expressing profound regret and also tendering apology qua the learned Presiding Officer of the said Trial Court, learned counsel submitted that he will withdraw paragraph Nos. 15 & 16. Saying so, learned counsel made endorsements in the case file. Scanned reproduction of these paragraph Nos. 15 & 16 together with endorsements are as follows:

15. That, as directed by the Ld. Civil Judge (Sr. Divn.) No.1, Manipur East, the Petitioners through their counsel appeared before the Court of the Ld. Addl. District Judge (FTC), Manipur East on 26/02/2010 in connection with the said Suit, however, the Presiding Officer of the Court of Ld. Addl. District Judge (FTC), Manipur East told the Ld. Counsel of the Petitioners that the case record of the said suit has not been received by the Court of the Ld. Addl. District Judge, and as such the Court of the Ld. Addl. District Judge would inform the Petitioners as and when the case record of the said suit has been received from the Ld. Civil Judge.

withdrawn
Pet. Fakhamuddin
26/05/2026

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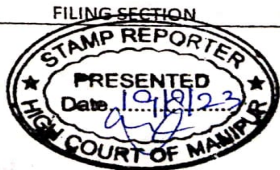
16. That, thereafter, the counsel for the Petitioners informed the Petitioners that though the Ld. Civil Judge passed order for transferring the file of the said suit to the Court of the Ld. Addl. District Judge (FTC), Manipur East the same has not been received by the Court of the Ld. Addl. District Judge (FTC) even on the date of appearance (i.e. 26/02/2010) fixed by the Ld. Civil Court.

On that day, the Ld. Counsel of the Petitioners told the Petitioners that he was assured by the Presiding Officer of the Ld. Addl. District Judge (FTC), Manipur East that he would be informed by the Ld. Court (i.e. Addl. District Judge) by sending notice or summon to the Petitioners for their appearance as and when the case record of the same was received from the file of the Ld. Civil Judge (Sr. Division) No.1, Manipur East.

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withdrawn
Pet. Fakhamuddin
26/05/2026

*Recast / Para 15 & 16 of the
Recast Petition No. 40/2017
in page 10 & 11 are
withdrawn
Mr. Fakhruddin
26/05/2026*

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High Court of Manipur Filing Section		OFFICE COPY
Acknowledgement TO BE FILLED UP BY THE APPLICANT		
FILING NO.	: 3225	
DATE OF FILING	: 19/08/2023	
CASE NO.	: CRP (CRP ART 227) NO. 40 of 2017	
REMARK	: Recast Petition	
BENCH TYPE	: SINGLE BENCH (✓) DOUBLE BENCH ()	
TIME	: 11:20am (TO BE FILLED UP BY DEALING ASSISTANT)	
FILING SECTION 		

This puts an end to the argument pertaining to allegations regarding learned Presiding Officer. The most important and significant point in this regard is, even if paragraph Nos 15 & 16 are removed from the CRP, that does not in any way take away the other grounds on which this Court is interfering with the order of the said Trial Court.

[19] This Court makes it clear that, in CoD applications the number of days delay sought to be condoned should be set out with complete clarity, exactitude and specificity. In the case at hand, a mild exception has been made considering the nature of the matter, the close blood relationship of the parties and the pendency of the suit which includes a partition prayer for over 2(two) decades. Therefore, this order

will not serve as an across the Board precedent in all and every case where the applicants do not mention the number of days sought to be condoned in CoD applications.

[20] Before concluding, this Court reminds itself of the obtaining legal position that the earlier principle that every day's delay sought to be condoned should be explained has subsequently been watered down by the Hon'ble Supreme Court by a long line of authorities inter alia by saying that the same is a wooden approach. In the case at hand, this Court is convinced that 127 days qua restoration of innocuous applications to bring on record undisputed LRs of a litigant who died pending suit and amendment to LR application which were dismissed for default owing to plaintiffs not receiving notice of hearing date in spite of a judicial order, is certainly condonable on the ground that the CoD applicants were not aware that the said Trial Court had directed them to appear on 26.04.2010 as order dated 26.03.2010 directing and fixing 26.04.2010 as a date of appearance was never received by the plaintiffs. To be noted, there is no contra material in this regard.

[21] Before writing the concluding paragraph, as this court is interfering with the impugned orders and as this Court will be setting aside the impugned orders, this Court deems it appropriate to write that the said Trial Court, will do well to take up the two decades old said declaratory suit, on a priority basis, subject of course to other cases and other official work of the Trial Court and dispose of the said declaratory suit as

expeditiously as the Board and official work of the said Trial Court would permit. It would also be desirable to explore the possibility of resorting to mediation. This latter/second observation is made to make it clear that former/first observation of this Court qua expeditious disposal should not be construed as excluding resort to mediation or any other ADR mechanism.

[22] Ergo, sequitur is, all 4(four) captioned CRPs are allowed and common impugned orders, all dated 30.08.2017 made in Judl. Misc. Case No. 69 of 2011/1 of 2014, Judl. Misc. Case No. 68/2011/3 of 2014, Judl. Misc. Case No. 77/2011/6 of 2014 and Judl. Misc. Case No. 26/2011/5 of 2014 on the file of the Court of Additional District Judge (F.T.C) Manipur East is set-aside. Let the copies of the suit records be sent back to the said Trial Court. Considering the close relationship of the parties and the nature of the matter, this Court refrains from imposing costs.

CHIEF JUSTICE

FR/NFR

Indrajeet

P.S. I : Upload forthwith

P.S. II : All concerned will stand bound by web copy uploaded in High Court website inter alia as the same is QR coded.