IN THE HIGH COURT OF MANIPUR
AT IMPHAL

Misc.Case (El.Pet.) No. 14 of 2020
(Ref: Election Petition No. 11/2017)

Langpoklakpam Jayantakumar Singh, aged about 65 years, S/o Late Dr. L. Bhagyachandra Singh, resident of Pishumthong Oinam Leikai, P.O. Imphal, P.S. Singjamei, District Imphal West, Manipur.

… Applicant/Respondent No.1

-Versus-

1. Laishom Ibomcha Singh, aged about 68 years, S/o Late L. Tomba Singh, resident of Keishamthong Lasom Leirak, P.O. & P.S. Imphal, District Imphal West, Manipur.

…Opposite Party/Petitioner

2. Rajkumar Shivachandra Singh, aged about 51 years, son of late Rajkumar Sanayaima Singh, resident of Kwakeithel Laishram Leikai, P.O. Imphal, P.S. Singjamei, District Imphal West, Manipur.
3. Potsangbam Dhanakumar Singh, aged about 61 years, son of late Potsangbam Kalachand Singh, resident of Haobam Marak Ngangom Leikai, P.O. Imphal, P.S. Singjamei, District Imphal West, Manipur.
4. Heisnam Lokeshwar, aged about 52 years son of late H. Mangoljao Singh, resident of Sega Road Khwairakpam Leikai, P.O. & P.S. Imphal, District Imphal West, Manipur.
5. Khaba Paonam, aged about 33 years, son of Paonam Tejamani, resident of Keishamthong Hodam Leirak, P.O. & P.S. Imphal, District Imphal West, Manipur.
6. Yumnam Romola Devi, aged about 47 years, daughter of Yumnam Birendro Singh, resident of Keishamthong Elangbam Leikai, P.O. & P.s. Imphal, District Imphal West, Manipur.
7. Changamayum Ganeshal Singh, aged about 52 years, son of late Changamayum Brajabidhu Singh, resident of Pishumthong Ningom Leirak, P.O. Imphal, P.S. Singjamei, District Imphal West, Manipur.

… Performa Opposite Parties/ Respondents Nos. 2 to 7

AND IN THE MATTER OF
Election Petitioner No. 11/2017

Laishom Ibomcha Singh. ***... Petitioner***

-Versus-

Langpoklakpam Jayantakumar Singh & 6 Ors. ***... Respondents***

B E F O R E
HON'BLE MR. JUSTICE KH. NOBIN SINGH

For the applicant	::	Shri A. Golly & Shri T. Rajendra, Advocates
For the respondents	::	Shri O. Ratankumar, Advocate
Date of Hearing	::	**11.09.2020**
Date of Order	::	**05-10-2020**

ORDER

[1] Heard Shri A. Golly as well as Shri T. Rajendra, learned counsels appearing for the applicant/ respondent No.1 and Shri O. Ratankumar, learned counsel appearing for the respondent No.1/ petitioner.

[2] This is an application filed by the applicant praying for rejection of the evidence by way of affidavit dated 11-02-2020 filed by the respondent No.1/ petitioner mainly on three grounds that it is not permissible to adduce evidence in the affidavit or in other words, no documents can be exhibited in the affidavit; that the verification in support of the affidavit is defective and is not in proper form, in the sense that it is nowhere stated in the affidavit as to which paragraphs thereof are true to his knowledge and which are believed to be true and that since the affidavit is defective one which cannot be relied upon by the respondent No.1/ petitioner, the same has no probative and evidentiary value.

[3] There is no specific provision in the Representation of People Act, 1951 which provides that the Code of Civil Procedure, 1908 shall be strictly applied in the trial of the election petition. What Section 87 provides is that subject to the provisions of the said Act, every election petition shall be tried by the High Court, **as nearly as may be**, in accordance with the procedure applicable under the CPC, 1908 to the trial of suits. The use of the expression "**as nearly as may be"** in Section 87 has clearly demonstrated that only the spirit of CPC shall be applied in the trail of the election petition and that too, in a situation for which there is no specific provision in the Act or in the rules made thereunder. In **Dr. Kh. Loken Singh Vs. Shri R.K Imo & ors**, **EP No. 5 of 2017**, this Court held:

> *Section 87 of the RP Act, 1951 provides that every election petition shall be tried by the High Court in accordance with the procedure applicable under the CPC with the qualifying expression "as nearly as may be" which indicates that all the provisions of the CPC are not applicable in the trial of an election petition. If it is intended by the Legislature that all the provisions of the CPC will have to be applied in the trial of an election petition, it could have expressly provided in the section itself instead of using the expression "as nearly as may be" but it did not do that. The trial of an election petition by the High Court is subject to the provisions of the RP Act, 1951 and the rules made thereunder. The expression "as nearly as may be" is not defined in the RP Act, 1951 and in other words, what and which provisions of CPC will be applied in the trial of the election petition, have not been specifically mentioned in the RP Act, 1951.*

The above view has been reiterated by this Court vide its

order dated 06-01-2020 passed in this election petition while disposing of the application being MC(EP) No.11 of 2019 filed by the applicant herein.

[4] On perusal of the examination-in-chief in the form of affidavit filed by the respondent No.1/ petitioner, it is seen that the documents have been exhibited therein and moreover, the verification of the affidavit is also not proper. The examination-in-chief has been filed in the form of affidavit with the documents being exhibited therewith. In other words, the contention of the applicant/ respondent No.1 is correct to that extent. In fact, the documents are to be exhibited only when the examination-in-chief is formally recorded before the Court or before the commission appointed by the Court for that purpose by treating the affidavit as examination-in-chief.

[5] In view of the above, the application stands disposed of with the direction that the examination-in-chief in the form of affidavit dated 11-02-2020 shall not be taken on record. But keeping in mind the facts and circumstances of the present case, the respondent No.1/ petitioner is permitted to file a fresh examination-in-chief in the form of affidavit, within a week from today, after the aforesaid errors being rectified by the respondent No.1/ petitioner.

[6] Copies of this order shall be sent to the counsels appearing for the parties through their WhatsApp/e-mail.

JUDGE

Yumkham Rother
Digitally signed by Yumkham Rother
Date: 2020.10.06 14:40:47 +05'30'

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