Serial No. 01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

CRP No. 38 of 2020

Date of Decision: 14.12.2020

Smti Riewda Mylliem **Vs.** The Assistant to Deputy Commissioner (Judicial) Khliehriat

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner(s) : Mr. S.R. Lyngdoh, Adv.

For the Respondent(s) :

i) Whether approved for reporting in Law journals etc: Yes/No

ii) Whether approved for publication in press: Yes/No

1. Matter taken up via Video Conferencing.

2. This is an application under Article 227 of the Constitution of India assailing the order of the Assistant to Deputy Commissioner (Judicial), East Jaintia Hills District, dated 02.11.2020 passed in Title Suit No. 5 of 2020, whereby the plaint of the petitioner was rejected under Order VII Rule 11 (a) (e) of the Code of Civil Procedure. The reason for rejection as shown in the impugned order is that, the plaintiff did not provide translated copies of the documents, which had been annexed along with the plaint, which was in Khasi language.

3. Mr. S.R. Lyngdoh, learned counsel for the petitioner submits that the matter was urgent in nature and not enough time was allowed to the plaintiff to provide translated copies of the documents for perusal of the Court. He further submits that rejection of the plaint by the learned Assistant to Deputy Commissioner has caused grave injustice to the plaintiff and as such, having no other recourse has approached this Court under Article 227 of the Constitution of India. He further submits that since no notice had been issued and that the Suit was at the very initial stage, he also has no option but to implead the Court as a party respondent and therefore prays that the impugned order be set aside and he be allowed to supply translated copies as directed by the trial Court.

4. I have heard Mr. S.R. Lyngdoh, learned counsel for the petitioner and perused the application as placed. It is noted that impleadment of the Court, which has passed the order is highly unwarranted and unnecessary and has been deprecated in many instances by Courts around the country including the Hon'ble Supreme Court. As such, the Assistant to Deputy Commissioner who has been impleaded as a party, is struck-off from the cause title of the application. Coming to the other grievances of the petitioner, it is to be remembered that though the Code of Civil Procedure is not applicable in letter and the same is applicable only in spirit, as in the instant proceedings which have been instituted under the Rules for the ***Administration of Justice and Police in the Khasi and Jaintia Hills, 1937***, *the doctrine of justice, equity, and good conscience* is to

be applied, especially where specific procedure is silent or not prescribed. The objective of any court in any proceeding is to achieve a fair and proper adjudication of the issues of the entire matter in dispute. In this regard, it is incumbent upon the Court and also the advocates who are officers of the Court to assist in every possible manner, in the dispensation of justice, especially in these areas.

5. Section 137 of the Code of Civil Procedure speaks of the language of Subordinate Courts, and has laid down that the language, which on the commencement of the Code is the language of any Court subordinate to a High Court, shall continue to be the language of such subordinate Court until notified otherwise or as directed by the State Government.

6. In the State of Meghalaya, the language of the Court is English. The tendering of original documents as exhibits in the suit, will by law be necessarily be governed by the Law of Evidence irrespective whether they be in any language, and will in no manner prejudice the case of the plaintiff. The translation of the original documents into English will however in fact, aid the Court which has professed its inability to understand the documents which are in Khasi. In this regard, procedure being the hand-maid of justice, all attempts should be made to adopt good practices in the procedure in order to achieve justice in public interest, and not to raise hyper technical issues.

7. By the impugned order, the plaint has been rejected on two grounds i.e. it does not disclose the cause of action and that the

copy of the plaint has not been filed in duplicate. The findings that have been arrived as understood is based on the non-supply of translated copies of the documents and further the non-filing of second copy of the plaint. These in the opinion of this Court, should not result in the non-suiting of the plaintiffs as has occurred in the case at hand.

8. For the ends of justice and not to cause further delay to the matter and or put the litigants into any difficulty, the impugned order dated 02.11.2020 passed in Title Suit No. 5 of 2020 is set aside and quashed and the said Title Suit restored to file. The petitioner shall on the next date supply the necessary translated copies of the documents annexed to the plaint and also file duplicate copies of the plaint. Since as pleaded by the petitioner that the matter is of grave urgency, let the matter be taken up by the Assistant to Deputy Commissioner on 21.12.2020.

9. For the reasons afore stated, this Civil Revision Petition is accordingly disposed of. No order as to costs.

JUDGE

Meghalaya
14.12.2020
"V. Lyndem-PS"