

GAHC020008162024

2025:GAU-NL:179



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
KOHIMA BENCH

Case No. : Review.Pet./6/2024

SHRI TSUMONGO OVUNG
VUNGOJU, WOKHA TOWN
NAGALAND-797111

VERSUS

WOKHA TOWN BAPTIST CHURCH AND 5 ORS
THROUGH ITS BOARD OF DEACONS
REPRESENTED BY ITS SECRETARY
SHRI RUSHAMO TSOPOE
WOKHA TOWN, NAGALAND-797111

2:SHRI ORENVUNGO HUMTSOE
CONVENOR
LEGAL CELL
COMMITTEE
WOKHA TOWN BAPTIST CHURCH
WOKHA-797111

3:THE STATE OF NAGALAND
REPRESENTED BY THE CHIEF SECRETARY
NAGALAND KOHIMA

4:THE HOME COMMISSIONER
GOVT. OF NAGALAND
NAGALAND KOHIMA

5:THE DEPUTY COMMISSIONER
WOKHA NAGALAND-797111

6:THE LOTHIA BAPTIST CHURCHES ASSOCIATION

WOKHA NAGALAND-79711

Advocate for the Petitioner : C. T. JAMIR, SR. ADV, O TEMJEN JAMIR,JAWAMONG YADEN,IMTILA PONGEN,NUNGSANG AIER,KROVI TSUKRU,TOSHI JAMIR,ASA RUTSA,ALIBA OZUKUM,I IMCHEN

Advocate for the Respondent : A. ZHIMOMI, NEITSEIZONUO SOLO,MANJONG KONYAK,VITO K SHOHE,G KAMEI,LHOUSINO,ESTHER

With **Review.Pet./7/2024**

SHRI YANPANSAO
LMTC COLONY, WOKHA, NAGALAND-797111

VERSUS

WOKHA TOWN BAPTIST CHURCH AND 5 ORS
THROUGH ITS BOARD OF DEACONS
REPRESENTED BY ITS SECRETARY
SHRI RUSHAMO TSOPOE
WOKHA TOWN, NAGALAND-797111

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3:THE STATE OF NAGALAND
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WOKHA NAGALAND-797111

6:THE LOTHIA BAPTIST CHURCHES ASSOCIATION
WOKHA NAGALAND-79711

Advocate for the Petitioner : C. T. JAMIR, SR. ADV, O TEMJEN JAMIR,JAWAMONG YADEN,IMTILA PONGEN,NUNGSANG

AIER,KROVI TSUKRU,TOSHI JAMIR,ASA RUTSA,ALIBA OZUKUM,I
IMCHEN

Advocate for the Respondent : A. ZHIMOMI, NEITSEIZONUO
SOLO,MANJONG KONYAK,VITO K SHOHE,G
KAMEI,LHOUSINO,ESTHER

With Review.Pet./8/2024

SHRI MHONSAO NGULLIE
NIROPEN COLONY
WOKHA NAGALAND-797111

VERSUS

WOKHA TOWN BAPTIST CHURCH AND 5 ORS
THROUGH ITS BOARD OF DEACONS
REPRESENTED BY ITS SECRETARY
SHRI RUSHAMO TSOPOE
WOKHA TOWN, NAGALAND-797111

2:SHRI ORENVUNGO HUMTSOE
CONVENOR
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WOKHA TOWN BAPTIST CHURCH
WOKHA-797111

3:THE STATE OF NAGALAND
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NAGALAND KOHIMA

4:THE HOME COMMISSIONER
GOVT. OF NAGALAND
NAGALAND KOHIMA

5:THE DEPUTY COMMISSIONER
WOKHA NAGALAND-797111

6:THE LOTHIA BAPTIST CHURCHES ASSOCIATION
WOKHA NAGALAND-79711

Advocate for the Petitioner : C. T. JAMIR, SR. ADV, O TEMJEN
JAMIR,JAWAMONG YADEN,IMTILA PONGEN,NUNGSANG
AIER,KROVI TSUKRU,TOSHI JAMIR,ASA RUTSA,ALIBA OZUKUM,I

IMCHEN

Advocate for the Respondent : A. ZHIMOMI, NEITSEIZONUO
SOLO,MANJONG KONYAK,VITO K SHOHE,G
KAMEI,LHOUSINO,ESTHER

Date of hearing : 06.03.2025
Date of Judgment : 25.04.2025

**BEFORE
HON'BLE MR. JUSTICE BUDI HABUNG**

**:: JUDGMENT AND ORDER ::
[CAV]**

Heard Mr. C. T. Jamir, learned Senior Counsel, assisted by Mr. I. Imchen, learned Counsel for the review petitioners. I have also heard Mr. A. Zhimomi, assisted by Ms. Esther, learned Counsel for the respondents.

2. These batches of three review petitions seeks to review the Judgment and Order dated 26.11.2024, passed by this Court in Civil Revision Nos. 09 of 2024, 10 of 2024, and 11 of 2024.

3. The petitioners' case is that initially, the Samyan Baptist Ekhumkho, Vungoju Sector, Tchuphyangzu Baptist Ekhumkho, NST Sector, and Tiychan Lotha Baptist Church Ekhumkho, Saron Sector (hereinafter referred to as the "three churches"), were under the Wokha Town Baptist Church (WTBC) before being recognized as separate individual churches. Following their recognition as independent churches, tensions arose among the believers of the

three churches. In response to the escalating situation, the Deputy Commissioner of Wokha issued an order on 11.02.2021, to maintain peace and tranquillity in Wokha town. This order was challenged by respondents Nos. 1 and 2 in WP(C)/69/2021, which was disposed of by an order dated 16.09.2021, directing the members of the churches to worship in their respective churches. According to the petitioners, the judgment and order dated 16.09.2021, was misinterpreted by the respondents, who claimed that the direction of the Hon'ble Court to hand over the keys to the respective functionaries of the churches was limited to the church buildings and did not include the apartments, office, and Sunday School buildings. Consequently, the Deputy Commissioner of Wokha issued a circular on 18.09.2021, misinterpreting the order dated 16.09.2021, passed in WP(C)/69/2021. Aggrieved by this misinterpretation, the three churches filed Review Petition No. 3/2021. In this review petition, Shri Tsumongo Ovung (petitioner in Civil Rev. Pet No. 9/2024) represented the Samyan Baptist Ekhumkho; Shri Yanpansao (petitioner in Civil Rev. Pet No. 10/2024) represented the Tchuphyangzu Baptist Ekhumkho; and Shri Mhonsao Ngullie (petitioner in Civil Rev. Pet No. 11/2024) represented the Tiychan Lotha Baptist Church Ekhumkho.

4. The Review Petition was disposed of by a coordinate bench of this Court by an order dated 24.02.2023, with the observation that this Court is not the appropriate forum to decide the rights and titles of the parties at this stage; such matters must first be resolved by the Civil Court having geographical and pecuniary jurisdiction.

5. Following the judgment and order passed in the aforementioned review petition, the present respondents Nos. 1 and 2 approached the District Court of Wokha by filing Civil Suit No. 01/2023, wherein the present petitioners—Shri Tsumongo Ovung, Shri Yanpansao, and Shri Mhonsao Ngullie—were impleaded as defendants Nos. 1, 2, and 3, respectively, representing the three churches.

6. Aggrieved by their impleadment, the three petitioners filed separate Civil Miscellaneous Cases No. 05/2023, 06/2023, and 07/2023 under Order VII Rule 11 of the Code of Civil Procedure, 1908, seeking the rejection of Civil Suit No. 01/2023 on the grounds of misjoinder of parties, among other issues. They contended that they were impleaded as defendants in their individual capacities and could not represent the three churches—Samyan Baptist Ekhumkho, Tchuphyangzu Baptist Ekhumkho, and Tiychan Lotha Baptist Church Ekhumkho. The objections raised by the petitioners were not considered, and the Miscellaneous Cases were dismissed, leading to filing of separate Civil Revisions that are currently pending.

7. Subsequently, the petitioners filed three separate Civil Miscellaneous Cases No. 03/2024, 04/2024, and 05/2024 in Civil Suit No. 01/2023 before the District Judge under Order I Rule 10(2) of the Code of Civil Procedure, 1908, seeking to strike out their names on the ground that they are not necessary parties. The applications were dismissed by a common order dated 06.06.2024, on the ground that

the church is not a juristic entity and cannot be made a party; therefore, the petitioners are necessary parties to represent the three churches.

8. Aggrieved by the common impugned order dated 06.06.2024, the petitioners filed separate Civil Revision Petition Nos. 09 of 2024, 10 of 2024, and 11 of 2024, contending that it is the churches that are the parties, not the petitioners in their personal capacities, and as such, the order is liable to be quashed and set aside.

9. It is an admitted fact that in this case, the petitioners—Shri Tsumongo Ovung, Advisor of the Action Committee of the three churches; Shri Yanpansao, Convenor of the Action Committee of the three churches; and Shri Mhonsao Ngullie, Secretary of the three churches—represented the three churches: Samyan Baptist Ekhumkho, Tchuphyangzu Baptist Ekhumkho, and Tiyichan Lotha Baptist Church Ekhumkho, in earlier proceedings before the High Court in Civil Review Petition No. 3/2021, which they filed jointly. This is evident from their statement made in paragraph 2 of Civil Review Petition No. 03/2021, where they stated that the Samyan Baptist Ekhumkho, Vungoku is represented by Mr. Tsumongo Ovung; Tchuphyangzu Baptist Ekhumkho, NST Colony, is represented by Mr. Yanpansao; and Tiyichan Lotha Baptist Ekhumkho is represented by Mr. Mhonsao Ngullie. The petitioners further stated that they hold the positions of Advisor, Action Committee; Convenor, Action Committee; and Secretary of the three churches, respectively. They clarified that

they were authorized by the respective three churches to file the review application and to take any steps for the redressal of grievances on their behalf.

10. The contention of the three petitioners is that they represented the churches solely in a representative capacity, having been authorized by the respective churches for this particular case. This authorization does not automatically extend to represent the churches in another suit filed against them. The learned counsel for the petitioners submitted that they may or may not be authorized by the churches to represent them in the present case. Therefore, the petitioners, acting in their personal capacities, are not necessary parties and cannot be impleaded in that capacity unless the churches authorize them to do so. Additionally, the learned counsel for the petitioners argued that the actual parties in the review petition are the churches, not the petitioners in their individual capacities. Furthermore, it was contended that the petitioners have no interest in the suit property; thus, no decree can be granted against or in favour of the petitioners in the aforementioned suit. Therefore, they are not necessary parties in the pending suit, and their names should be struck out under Order I Rule 10(2) of the Code of Civil Procedure, 1908.

11. On the other hand, the respondents contended that since the petitioners—Shri Tsumongo Ovung, Shri Yanpansao, and Shri Mhonsao Ngullie—are the Advisor, Convenor, and Secretary of the

three churches, and they have sworn affidavits representing the churches in all proceedings so far, including Review Petition No. 03/2021, they cannot now retract from their responsibility on the grounds that they have not been authorized in the present case. The respondents further argued that the three churches are not juristic entities and, as such, cannot be made parties; they must be represented by their members. The petitioners, being members of the churches and holding the positions of Advisor, Convenor, and Secretary, of three churches, have been authorized to represent the churches in all earlier proceedings and can effectively represent them in the current suit.

12. Upon consideration, this Court, by Judgment and Order dated 26.11.2024, disposed of Civil Revision Petition Nos. 9 of 2024, 10 of 2024, and 11 of 2024. The Court observed that the petitioners had represented the three churches in earlier proceedings introducing themselves as Advisor, Convenor, and Secretary, and that the prior representation was closely related to the current Civil Suit filed. This civil suit was filed pursuant to the observation made in the Review petition No.3/2021 filed by the three petitioners. Consequently, the Court did not interfere with the order dated 06.06.2024, passed by the learned District Judge, Wokha, regarding the representation of the petitioners for their respective churches.

13. However, while noting that the petitioners have no personal title over the disputed properties and that no decree can be granted

against or in favour of the petitioners in their personal capacity, the Court further observed that the three churches should be impleaded as respondents, represented by the petitioners in their capacities as Advisor, Convenor, and Secretary of the three churches. This was done in view of the fact that the petitioners had represented the three churches in those capacities in earlier litigation, which led to the filing of the current Civil Suit.

14. The Court further allowed the respondents/plaintiffs to file an appropriate application to implement this change. Additionally, the three churches were granted the liberty to change their respective representatives if the petitioners no longer hold the aforementioned positions, by filing an appropriate application as needed.

15. In light of these circumstances, the petitioners have filed this review application seeking a review of the Judgment and Order dated 26.11.2024, primarily on the grounds that Shri Tsumongo Ovung is the Advisor; Shri Yanpansao is the Convenor; and Shri Mhonsao Ngullie is the Secretary of the Action Committee formed by the three churches, namely Samyan Baptist Ekhumkho, Tchuphyangzu Baptist Ekhumkho, and Tiychan Lotha Baptist Ekhumkho, and not as individual representatives of the churches, as stated in paragraph 25 of the Judgment.

16. The second ground for review of the judgment and order is that the petitioners cannot be compelled to represent the respective churches in litigation by the Court or by the plaintiffs, as it is the

prerogative of the churches to select or nominate their representatives. The finding arrived at by this Court does not automatically qualify them to represent the churches without the consent of the respective churches in a new litigation.

17. Another ground for review of the judgment and order is that the finding of this Court directing Mr. Tsumongo Ovung to represent Samyan Baptist Ekhumkho, Mr. Yanpansao to represent Tchuphyangzu Baptist Ekhumkho, and Mr. Mhonsao Ngullie to represent Tiychan Lotha Baptist Ekhumkho, without the consent of the respective churches, deprives the churches of their right to decide who should represent them, necessitating the Court's interference. Additionally, the petitioners assert that there has been a misapplication of the judgment.

18. For the reasons stated above, the petitioners pray for a review and modification of the judgment and order dated 26.11.2024, in the interest of justice.

19. On the other hand, the learned counsel for the respondents submitted that it is well settled that a party is not entitled to seek a review of a judgment merely for the purpose of rehearing and obtaining a fresh decision. He further submitted that the normal principle is that a judgment pronounced by the Court is final, and any departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so. In

the instant case, this court observed that since *the petitioners have no personal title over the disputed properties, and no decree can be granted against or in favour of the petitioners in their personal capacity. Therefore, directed that the three churches should be impleaded as respondents, represented by the petitioners* and further made it clear that, *the three Churches retain the right to change their respective representatives, by filing an appropriate application as needed.* Accordingly, the respondent plaintiff has filed an IA before the trial Court, for impleadment of the three churches represented by the petitioners.

20. The learned counsel for the respondent further submitted that a review petition has a very limited purpose and it cannot be allowed to function as an appeal in disguise. He referenced the decision of the case in ***Parison Devi Vs. Sumitri Devi***, reported in ***(1997) 8 SCC 715***, wherein it was held that ***"Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and corrected". A review petition, it must be remembered has limited purpose and cannot be allowed to be "an appeal in disguise."***

21. The learned counsel for the respondents while submitting that the review petitioner has no case for review of the impugned judgment and order, for which it deserved to be dismissed has referred to the decision of the Hon'ble Supreme Court in case ***Sanjay Kumar Agarwal Vs. State Tax Officer***, reported in ***(2024) 2 SCC 362***, where the principle that a judgment may be open to review are being laid. The gist of the decision in the case at Para 16 is reproduced below:

"16. The gist of the afore-stated decisions is that: -

16.1 A judgment is open to review inter alia if there is a mistake or an error apparent on the face of the record.

16.2. A judgment pronounced by the Court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so.

16.3. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record justifying the court to exercise its power of review.

16.4. In exercise of the jurisdiction under Order 47 Rule 1 CPC, it is not permissible for an erroneous decision to be "reheard and corrected."

16.5. A Review Petition has a limited purpose and cannot be allowed to be "an appeal in disguise."

16.6. Under the guise of review, the petitioner cannot be permitted to reagitate and reargue the questions which have already been addressed and decided.

16.7. An error on the face of record must be such an error which, mere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may

conceivably be two opinions.

16.8. *Even the change in law or subsequent decision/ judgment of a co-ordinate or larger Bench by itself cannot be regarded as a ground for review."*

22. The learned counsel for the respondents argued that in view of the principle laid down by the Hon'ble Supreme Court of India in the above referred case, the review petitioners have no valid grounds for seeking a review of the impugned judgment and order, and therefore, it should be dismissed.

23. The petitioners have pursued the matters on behalf of the three churches. In the suit in question, their names have been mentioned as defendants representing the three churches, and they had previously represented the churches not in their personal capacity. However, it is important to note that they are the authorized representatives of the three churches. Additionally, the petitioners clearly stated in their Civil Review Petition No. 03/2021 that they were authorized by the three churches to file the review application and take any steps for redressal of grievances of three churches on their behalf.

24. Given these facts, this Court observed that since the petitioners had represented the churches in earlier proceedings, they cannot later claim a lack of authority, especially when the case pertains to the same matter and is a continuation of earlier proceedings.

Furthermore, the Court clarified that if there is a change in the portfolio holders of the churches, the churches are always at liberty to inform the Court and file an appropriate application for a change in their representatives.

25. The Court also noted the observation made in the impugned judgment, stating that the petitioners have no personal title over the disputed properties, and no decree can be granted against or in favour of the petitioners in their personal capacity. Therefore, the Court observed that the three churches should be impleaded as respondents, represented by the petitioners in their capacities as Advisor, Convenor, and Secretary of the three churches. This observation was made in view of the statement made by the petitioners that they are Advisor, Convenor and Secretary, of the three Churches, and that they are authorised by the three churches to file the said review application and to take any steps for redressal of the grievances of the three churches on their behalf. However, the Court made it clear that the three churches retain the right to change their respective representatives if so desired by filing an appropriate application before the trial Court. This does not prevent the churches from appointing new representatives if they wish, regardless of any portfolio held by individuals.

26. However, instead of making a simple application before the Trial Court for change of representative, the review petitioners have approached this Court with this Review petition, which in the light of

the established principles in ***Sanjay Kumar Agarwal Vs. State Tax Officer*** (supra), does not lie.

27. The learned counsel for the petitioners submitted that there is an error apparent in the judgment and order regarding the portfolio of the petitioners as representatives of the three individual churches, whereas they are actually hold the position of Advisor, Convenor, and Secretary of the three churches. However, the conclusion drawn by this Court was not based on the petitioners holding the portfolio of the individual churches. The error in mentioning that the petitioners hold portfolios for the individual churches instead of three churches does not substantially affect the merit of the case in the judgment. The petitioners themselves stated that they represent the churches in their capacities as Advisor, Convenor, and Secretary of the three churches while introducing themselves as holders of these portfolios.

28. Having heard the learned counsel for the review petitioners, I have also perused the recent judgment of the Hon'ble Supreme Court in *Sanjay Kumar Agarwal Vs. State Tax Officer* (supra) to determine whether the Review petitions could be considered by this Court in light of the principles enumerated therein. Upon examination of the pleadings in the review petitions, I am unable to accept the contention of the learned counsel for the review petitioners that there is an error apparent on the face of the judgment impugned in the review petitions nor do I find that any principles of natural justice have been violated that requires correction.

29. In view of the above, this Court finds no merit in the three review petitions and accordingly, all review petitions are dismissed.

30. However, the portfolio of the petitioners- Shri Tsumongo Ovung as Advisor of the Action Committee for Samyan Baptist Ekhumkho, Shri Yanpansao as Convenor of the Action Committee for Tchuphyangzu Baptist Ekhumkho, and Shri Mhonsao Ngullie as Secretary of Tiychan Lotha Baptist Church Ekhumkho, as recorded in the impugned judgment, stands corrected to reflect that they are the Advisor, Convenor, and Secretary of the three churches.

31. The three review petitions stand disposed of.

JUDGE

Comparing Assistant