Serial No. 01
Supplementary List

MLHC010015342024

HIGH COURT OF MEGHALAYA
AT SHILLONG

CRP No. 36 of 2024

Reserved on: 14.09.2026
Pronounced on: 26.11.2026
Uploaded on: 26.11.2026

Whether the operative part or full judgment is pronounced: Full Judgment

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Smti. Lorina Jyrwa Nongsiej
D/o Late Smti. J. Nongsiej
R/o Langkyrding
East Khasi Hills District,
Meghalaya.

…. **Petitioner**

-Versus-

Smti. Ibalari Lyngdoh Mawphlang
D/o (L) Robert Feller Kharbuki,
R/o Mawlai Umthlong, Shillong,
East Khasi Hills District,
Meghalaya.

…. **Respondent**

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

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

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

Appearance:

For the Petitioner/Appellant(s) : Ms. S. Nongsiej, Adv.

For the Respondent(s) : Mr. P. Yobin, Adv. with
Ms. B.L. Lyngkhoi, Adv.

JUDGMENT:

1. A Judgment/Order dated 28.11.2024 passed by the learned Judge, District Council Court, Shillong in Misc. Civil Appeal No. 4 of 2020 has been assailed in this instant revision petition by the petitioner who is the appellant in the said Misc. Civil Appeal.

2. The brief background of the case between the parties herein is that (L) Robert Feller Kharbuki (duly substituted by the respondent herein) as Plaintiff has instituted a Money Suit for recovery of a sum of ₹ 49,85,000/- (Rupees Forty-Nine Lakhs Eighty-Five Thousand) only, together with interest @ 12% p.a. against the petitioner herein as defendant. The matter was taken up by the learned Subordinate District Council Court, Shillong for adjudication, being registered as Money Suit No. 1 of 2020.

3. Written statement was also filed by the respondent/defendant. In the meantime, the petitioner has then filed an application under Order VII Rule 11 of the Code of Civil Procedure for rejection of the plaint.

4. Eventually, the parties were heard on the application under Order VII Rule 11 and the learned Subordinate District Council Court had disposed of the same vide order dated 27.10.2020 by rejecting the prayer made thereon.

5. Aggrieved by the said order dated 27.10.2020, the petitioner has then filed an appeal before the court of the learned Judge, District Council Court, Shillong and the same was registered as Misc. Civil Appeal No. 4 of 2020. As has been mentioned, the said appeal was disposed of vide order dated 28.11.2024, the prayer made therein being rejected. Hence this revision application.

6. Heard Ms. S. Nongsiej, learned counsel for the petitioner who has submitted that the learned Appellate Court vide the impugned judgment has basically dismissed the appeal on two grounds, the first being that money

transaction should not be considered as the basis for counting the period of limitation but cause of action has to be taken into consideration. If this is the case, then only Article 113 of the Limitation Act, 1963 will be applicable, whereas all other provisions of the said Limitation Act will not be applicable, more specifically Article 19 and 20, which according to the learned counsel, is not the correct proposition of law.

7. It is the further submission of the learned counsel that in the facts and circumstances of the case of the parties herein, in the plaint which has been instituted for recovery of money, the value of which is ₹ 49,85,000/- (Rupees Forty-Nine Lakhs Eighty-Five Thousand) only, the same allegedly being the sum of money loaned to the defendant/petitioner herein by the plaintiff/respondent, as far as the period of limitation is concerned, Article 19 and 20 of the Limitation Act will apply. There being no time period specified in the plaint for the alleged refusal of the defendant/petitioner to repay the said loan, the suit was therefore filed beyond the limitation period. The averment made at para 5 of the plaint has been specifically pointed out in this context. The case of **Ashok Kumar v. Kartar Singh, RSA No. 172 of 2017** decided on 11.07.2017 by the Delhi High Court has been cited by the learned counsel in this regard, particularly para 5(ii) of the same.

8. On the non-existence of any cause of action, order dated 09.07.2020 passed by the Supreme Court in the case of **Dahiben v. Arvindbhai Kalyanji Bhanusali, Civil Appeal No. 9519 of 2019**, para 13 & 14 has been cited by the learned counsel for the petitioner.

9. As to the second observation made by the learned Judge, District Council Court that the Limitation Act is not applicable to the case of the parties, being members of the Schedule Tribe, the learned counsel has submitted that the court has failed to appreciate that this Court in the case of **Shella Action Committee, Rally of Shella Village Natives v. The State of**

Meghalaya & Ors, vide judgment dated 12.04.2017 passed in **MC(Review Petition) No. 7 of 2015** has held that the Limitation Act is applicable to the whole State of Meghalaya.

10. Mr. P. Yobin, learned counsel for the respondent, on the other hand has defended the impugned judgment by asserting that the same suffers from no infirmity and was passed taking into consideration the law and the facts and circumstances of the case of the parties.

11. The learned counsel has reiterated that the factual situation at the inception of the case is that the deceased father of the respondent in order to financially help the petitioner, had taken a bank loan of ₹ 49,00,000/- (Rupees Forty-Nine Lakhs) only and has given it to her as aid in her business, particularly in the area of real estate.

12. In due course, when he came to know that the estate bought by the petitioner was to be sold off, he accordingly requested her to pay off his loan. Instead, the petitioner refused to pay back the said loan and has even threatened to sue him over the same. This happened in the month of December, 2019. The consequence of such act of the petitioner is the institution of a money suit by the father of the respondent herein.

13. The learned counsel has also submitted that the petitioner as defendant had filed an application under Order VII Rule 11(a)(d) of the Code of Civil Procedure with a prayer for rejection of the plaint on the ground that there was no cause of action in filing the said suit and that the same was also barred by limitation as well as barred by the provisions of the Benami Property Transaction Act, 1988.

14. The said application on being taken up for hearing, the learned Trial Court had dismissed the same vide order dated 27.10.2020, on appeal before the court of the learned Judge, District Council Court, the said appeal was also dismissed as devoid of merits vide the impugned order dated 28.11.2024,

submits the learned counsel.

15. The learned counsel has again submitted that the petitioner before the courts below has maintained that the last financial transaction between the parties was on 10.06.2016, three years hence, that is, on 10.16.2019, the limitation period will expire, as such, the suit being filed in the year 2020, the same is barred by limitation. The assumption that the limitation period commences from 10.06.2016 cannot be contemplated, asserts the learned counsel as the nature of the transaction, when the repayment became due, whether any specific repayment date agreed upon, when payment was demanded, when it was refused and when the right to sue actually accrued, has to be taken into consideration. A monetary transaction may take place on one date, but the right to institute proceedings may accrue subsequently, as such, 10.06.2016 to be taken as the date for calculation of limitation period is not the proper yardstick.

16. The learned counsel has again submitted that reliance of the petitioner on the applicability of Article 113 of the Limitation Act in this case is not well contended as the said provision speaks of accrual of the right to sue, but does not necessarily points to the date of the first financial transaction, as in the case of the parties herein, when in the plaint itself it was averred that the relevant period of refusal/denial of return of the loan amount arose in the month of December 2019, which fact was disputed by the petitioner/defendant who has referred to the starting date to the month of June 2016. This becomes a question of facts which has to be proved by the petitioner in course of trial, as such, the issue ceases to be capable of determination under Order VII Rule 11.

17. In this context, the learned counsel has submitted that the first appellate court having considered the case of the parties, including the contention of the petitioner/appellant on the period of commencement of the

period of limitation as regard the particular financial transaction between the parties, has concluded that the same requires proof through evidence and that the cause of action has to be considered while determining limitation.

18. In the light of the facts and circumstances of the case, the learned counsel has submitted that this being a revisional proceeding, the petitioner must demonstrate jurisdictional error, material irregularity, perversity or an error falling within the applicable revisional parameters. It is not enough to merely demonstrate that another view on the question of limitation is possible to render the impugned order untenable. As such, it is prayed that this instant petition being devoid of merits, is liable to be dismissed as such.

19. This Court having noted the respective contention of the parties and on perusal of the petition in hand as well as the impugned order dated 28.11.2024, the same being the order passed on appeal against the order dated 27.10.2020 passed by the learned Subordinate District Council Court, Shillong, therefore all relevant records have been gone through in this regard, is of the considered view that the issue involves procedural law.

20. The deceased father of the respondent has instituted a money suit citing financial dealings and transactions between him and the petitioner herein. Instances of such dealings relates to the year 2014 where apparently, the plaintiff had to take a bank loan of ₹ 49,00,000/- (Rupees Forty-Nine Lakh) only to finance the defendant/petitioner in her real estate business. Eventually, the plaintiff made a demand for return of his money to which the defendant/petitioner refused to acknowledge that she has taken such money from him. This happened in the month of December 2019.

21. The petitioner in her application under Order VII Rule 11(a) and (d) CPC, has maintained that there was no cause of action in filing of the money suit and the second limb of contention is that the suit was filed beyond the period of limitation, being barred as such, it is liable to be dismissed under the

said Rule.

22. Without any thorough discussion on the authorities referred to by the learned counsel for the petitioner, which essentially dealt with the concept and applicability of the provisions of the said Order VII Rule 11, however reference to the citation in the case of **Dahiben** (supra) would be convenient for elucidation, para 13 in particular which reads as follows:

> "13. "Cause of action" means every fact which would be necessary for the plaintiff to prove, if traversed, in order to support his right to judgment. It consists of a bundle of material facts, which are necessary for the plaintiff to prove in order to entitle him to the reliefs claimed in the suit.
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> In *Swamy Atmanand v. Sri Ramakrishna Tapovanam [(2005)10 SCC 51] this Court held:*
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> *"24. A cause of action, thus, means every fact, which if traversed, it would be necessary for the plaintiff to prove an order to support his right to a judgment of the court. In other words, it is a bundle of facts, which taken with the law applicable to them gives the plaintiff a right to relief against the defendant. It must include some act done by the defendant since in the absence of such an act, no cause of action can possibly accrue. It is not limited to the actual infringement of the right sued on but includes all the material facts on which it is founded"*
>
> *(emphasis supplied)*
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> In *T. Arivandandam v. T.V. Satyapal & Anr. [(1977) 4 SCC 467]* this Court held that while considering an application under Order VII Rule 11 CPC what is required to be decided is whether the plaint discloses a real cause of action, or something

purely illusory, in the following words:-

> "5. ...The learned Munsiff must remember that if on a meaningful – not formal – reading of the plaint it is manifestly vexatious, and meritless, in the sense of not disclosing a clear right to sue, he should exercise his power under O. VII, R. 11, C.P.C. taking care to see that the ground mentioned therein is fulfilled. And, if clever drafting has created the illusion of a cause of action, nip it in the bud at the first hearing..."
>
> (emphasis supplied)

Subsequently, in *I.T.C. Ltd. v. Debt Recovery Appellate Tribunal*, [(1998) 2 SCC 170] this Court held that law cannot permit clever drafting which creates illusions of a cause of action. What is required is that a clear right must be made out in the plaint.

If, however, by clever drafting of the plaint, it has created the illusion of a cause of action, this Court in *Madanuri Sri Ramachandra Murthy v. Syed Jalal* [(2017) 13 SCC 174] held that it should be nipped in the bud, so that bogus litigation will end at the earliest stage.

The Court must be vigilant against any camouflage or suppression, and determine whether the litigation is utterly vexatious, and an abuse of the process of the court."

23. Again, from the contents of the plaint, the plaintiff has cited the month of December 2019 as the period when the cause of action arose, the details of the financial transactions also being cited in the plaint itself, therefore, as has been held by the learned Trial Court that there is indeed cause of action to file the said suit, the same proposition being upheld by the learned

First Appellate Court, this Court is of the considered view that Article 113 of the Limitation Act would be applicable, the right to sue within a period of three years would accrue with effect from the month of December 2019. The suit being filed in the year 2020, the same is therefore within the limitation period. The impugned order does not suffer from any jurisdictional infirmity in this regard.

24. As to the issue of the applicability of the Limitation Act, 1963 in the State of Meghalaya, as has been pointed out by the learned counsel for the petitioner, the ratio of the case of **Shella Action Committee, Rally of Shella Village Natives** (supra) would indeed be applicable in this case, as such, inasmuch as it has been held, the Limitation Act is indeed applicable in the State of Meghalaya.

25. In the light of the observations made hereinabove, this revision petition is found devoid of merits and the same is hereby rejected.

26. Petition disposed of. No costs.

Judge

Meghalaya
26.11.2026
"Tiprilynti–PS"

Verified
Digitally signed by: TIPRILYNTI KHARKONGOR
Signed On: 26-11-2026 18:22:57 IST