

THE HIGH COURT OF MEGHALAYA AT SHILLONG.

CRP. No. 27 of 2014

Shri Phordan Marbaniang
S/o Late Shakni Marbaniang,
R/o Lower Mawprem,
East Khasi Hills District,
Shillong, Meghalaya.

... Petitioner

-Versus-

1. Shri P. Treilly Lyngdoh,
S/o Late Laphin Lyngdoh,
Resident of Umsamlem,
Ri-Bhoi District, Shillong,
Meghalaya.
2. Shri Commanly Lyngdoh Marshillong,
S/o Shri Nodron Nongsiej,
R/o Umsamlem,
Ri-Bhoi District, Meghalaya.
3. Shri Mor Mabaniang,
S/o Shri Jlin Syiemiong,
Resident of Umsamlem,
Ri-Bhoi District, Meghalaya.

... Respondents

**BEFORE
THE HON'BLE MR JUSTICE SR SEN**

For the Petitioner : Mr. K. Paul, Adv.

For the Respondents : Mr. C.H. Mawlong, Adv.

Date of hearing : **31.07.2015**

Date of Judgment & Order : **31.07.2015**

JUDGMENT AND ORDER (ORAL)

The petitioner's case in a nutshell is that:

"This is an application under Rule 6 of the High Court of Meghalaya (Jurisdiction over District Council Court) Order, 2014, against the impugned judgment and order dated 17.09.2014 passed by the

learned Presiding Officer, Sub-Ordinate District Council Court, Shillong in T.S No.06 of 2010 wherein the learned Trial Court after considerable and inordinate delay of almost two years from the date on which the hearing was concluded dismissed the suit of the petitioner vide the impugned judgment and order dated 17.09.2014 without appreciating the law as well as facts involved in the case in its proper perspective.

Being highly aggrieved and dissatisfied with the impugned Judgment and Order dated 17.09.2014 passed in T.S No.06 of 2014 by the learned Trial Court, the humble petitioner has approached this Court for redressal of his genuine grievance”.

2. Heard Mr. K. Paul, learned counsel appearing for and on behalf of the petitioner, who submits that, the issue placed in this instant case is limited only on the ground that, the argument of the case was concluded sometime in the year 2012 and judgment was passed on 17.09.2014. The learned counsel for the petitioner raised a question, how a case can remain pending for judgment for a long period of 2(two) years and prayed that the matter may be remand back for fresh hearing and judgment.

3. None has appeared for and on behalf of the respondents. Mr. C.H. Mawlong, learned counsel for the respondents was called repeatedly, but he was not found in the court premises till passing of this judgment and order at 3:50 PM.

4. I have gone through the impugned judgment in question dated 17.09.2014 passed by the Judge, Subordinate District Council Court, Shillong/Presiding Officer in Title Suit No. 6 of 2010. On going through the impugned judgment, it is noticed at the inner Page 23 of the judgment that, written argument was filed sometime in the year 2012. If it is so, then there is no logic or ground to keep the judgment pending for long 2(two) years and

ultimately, to pass on 17.09.2014, which is highly illegal and improper, because a Judge/Presiding Officer is also a human being and he has got also a limitation to remember the facts and circumstances of the case specially the points raised by the learned counsels in the argument. That is why; it is always wise and desirable that a judgment should be disposed of expeditiously.

5. Order XX Rule 1 made elaborate provision about the pronouncement of judgment. Proviso of Order XX Rule 1 made it clear that, if the judgment is not pronounced orally, in that case, it should be within 30(thirty) days. If in exceptional circumstances, the judgment cannot be pronounced within 30(thirty) days, then in that case, the court may fix another date or extend to 60(sixty) days from the date of conclusion of the judgment. For easy reference Order XX Rule 1 proviso is reproduced herein as under:

“ORDER XX

JUDGMENT AND DECREE

1. Judgment when pronounced. – (1) *The Court, after the case has been heard, shall pronounce judgment in an open Court, either at once, or as soon thereafter as may be practicable and when the judgment is to be pronounced on some future day, the Court shall fix a day for that purpose, of which due notice shall be given to the parties or their pleaders:*

Provided that where the judgment is not pronounced at once, every endeavour shall be made by the Court to pronounce the judgment within thirty days from the date on which the hearing of the case was concluded but, where it is not practicable so to do on the ground of the exceptional and extraordinary circumstances of the case, the Court shall fix a future day for the pronouncement of the judgment, and such day shall not ordinarily be a day beyond sixty days from the date on which the hearing of the case was concluded, and due notice of the day so fixed shall be given to the parties or their peladers”.

No law allows a judgment to be passed after almost 2(two) years.

6. The Hon'ble Supreme Court in the case of ***Subhash Chandra Rai & Anr vs. State of Bihar*** as well as ***Awani Rai vs. State of Bihar reported in AIR (2001) SC 3173 at Para 19*** was pleased to observe that:

“19. The intention of the Legislature regarding pronouncement of judgments can be inferred from the provisions of the Code of Criminal Procedure, Sub-section (1) of Section 353 of the Code provides that the judgment in every trial in any criminal Court of original jurisdiction, shall be pronounced in open Court immediately after the conclusion of the trial or on some subsequent time for which due notice shall be given to the parties or their pleaders. The words “some subsequent time” mentioned in Section 353 contemplates the passing of the judgment without undue delay, as delay in the pronouncement of judgment is opposed to the principle of law. Such subsequent time can at the most be stretched to a period of six weeks and not beyond that time in any case. The pronouncement of judgments in the civil case should not be permitted to go beyond two months”.

7. So, from the above observation of the Hon'ble Supreme Court, it is apparently clear that, the judgment is always desired to be pronounced immediately after conclusion of the argument, but in case it is not possible, he should not exceed 6(six) weeks or 2(two) months. Therefore, I find that the impugned judgment in question has been passed and delivered beyond time and against the principle of law.

8. Before I part with the case record, I also observed that the Presiding Officer concerned is very much negligent, because he has not mentioned the date of conclusion of the argument. But, the truth cannot be suppressed and it leaves its mark somewhere and that is why, in this instant

case the conclusion of argument found mentioned sometime in the year 2012 at the inner Page 23 of the judgment, for which, I expressed my anguish displeasure. The Presiding Officer should take a serious note of it.

9. Considering the facts and circumstances of the case, since the judgment is against the principle of law, the said judgment is hereby set aside and I hereby direct the Presiding Officer to hear the parties afresh and to pass the judgment as per the provision of the Code of Civil Procedure and guidelines given by Hon'ble the Apex Court referred above.

10. Let a copy of this judgment and order be communicated to the Presiding Officer concerned.

11. With these observations and directions, the matter stands disposed of.

JUDGE

D. Nary