

THE HIGH COURT OF MEGHALAYA AT SHILLONG.

WP(C) No.72/2015

1. Cantonment Harijan Welfare
Association a registered body under
Meghalaya Societies Registration Act,
1983 represented through its President.

2. Shri. Raju Singh,
Son of Shri. Tarsan Singh
R/o 29 Cantonment,
Harijan Colony, Shillong,
East Khasi Hills District,
Meghalaya.

:::: Petitioners

-Vs-

1. The Union of India,
through the Secretary,
Government of India,
Ministry of Defence,
North, Block,
New Delhi.

2. The Shillong Cantonment Board,
Shillong.

3. Chief Executive Officer,
Shillong Cantonment Board,
Meghalaya, Shillong.

:::: Respondents.

BEFORE
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH

For the Petitioner : Mr. R. Gurung, Adv

For the Respondents : Mr. S.P. Mahanta, Sr. Adv.
Mr. H. Abraham, Adv for Respt. No. 2 & 3

Date of hearing : **20.04.2015**

Date of Judgment & Order : **20.04.2015**

JUDGMENT AND ORDER(ORAL)

Heard Mr. R. Gurung, learned counsel appearing for the
petitioners and also Mr. S.P. Mahanta, learned senior counsel assisted by
Mr. H. Abraham, learned counsel appearing for the respondents No. 2 & 3.

2. In the writ petition itself, the petitioners had categorically pleaded that the impugned judgment and decree dated 09.04.2015 passed by the learned Munsiff, East Khasi Hills District, Shillong in T.S. No. 25 (H) 2004 is an applicable one and appeal lies in the Court of the learned District Judge, East Khasi Hills District. It is also stated in the writ petition that the petitioners are to obtain a certified copy of the said impugned judgment and decree dated 09.04.2015 passed by the learned Munsiff, East Khasi Hills District, Shillong for filing the appeal.

3. The respondents had already filed affidavit-in-opposition stating that the respondents could get the certified copy of the judgment and decree dated 09.04.2015 on the next day i.e. 10.04.2015. Mr. R. Gurung, learned counsel for the petitioners contended that the petitioners had already obtained a certified copy of the judgment and decree dated 09.04.2015. In such circumstances, this Court is of the considered view that the writ petitioners could file the statutory appeal against the impugned judgment and decree dated 09.04.2015 passed by the learned Munsiff, East Khasi Hills District, Shillong in the T.S. No. 25 (H) 2004 in the Court of the District Judge, East Khasi Hills District, Shillong.

4. In the writ petition, it is stated that the Presiding Officer of the Court of the District Judge, Shillong is the husband of the Munsiff, who passed the impugned judgment and decree. Learned counsel for the parties also contended that there is no Presiding Officer of the Court of Additional District Judge, East Khasi Hills District, Shillong and therefore, learned District Judge, East Khasi Hills District, Shillong, cannot transfer the appeal against the impugned judgment and decree of the learned Munsiff dated 09.04.2015 passed in T.S. No. 25 (H) 2004 for disposal to the Court of the Additional District Judge, East Khasi Hills District, inasmuch as there is no Presiding Officer of the Court of Additional District Judge, East Khasi Hills District, Shillong.

5. It is also the submission of the learned counsel for the petitioner that the appeal against the impugned judgment and decree of the learned Munsiff dated 09.04.2015 passed in T.S. No. 25 (H) 2004 is required to be decided expeditiously by the appellate Court inasmuch as the impugned judgment and decree dated 09.04.2015 is the judgment and decree for evicting of the writ petitioners from the suit land. In the peculiar circumstance of this case, for the ends of justice the learned District Judge, East Khasi Hills District is directed to transfer the appeal against the judgment and decree dated 09.04.2015 passed by the learned Munsiff, East Khasi Hills District, Shillong to the Court of District Judge, Nongpoh, Ri Bhoi District along with a caveat for disposal. Petitioners are to file the said appeal within 7 (seven) days from today in the Court of the District Judge, East Khasi Hills District, Shillong.

6. The learned District Judge, Nongpoh, Ri Bhoi District on receipt of the said appeal may pass necessary orders. Status quo of the suit land as on today, shall be maintained for a week. It is also made clear that the order of this Court shall not stand on the way of passing any appropriate order by the District Judge, Nongpoh, Ri Bhoi District. It is also further made clear that the learned District Judge has to decide, if any, interim order is required or not on the date of motion hearing of the appeal after giving opportunity to the caveators.

7. Writ petition is disposed of accordingly.

8. Registry is directed to furnish a copy of this order to the learned counsel for the parties in the course of the day.

JUDGE

Sylvana