

# THE HIGH COURT OF MEGHALAYA

## CRP. No. 14 of 2015

1. Shri John Chen,  
S/o (L) Chen KU  
Resident of Mawlai Phudmawri,  
Shillong, East Khasi Hills District.

... **Petitioner**

**-Versus-**

1. Smti Ivory Syiem,  
Resident of Mawlai Phudmawri,  
Shillong, East Khasi Hills District,  
Meghalaya.
2. Smti Majorie Syiem,  
Resident of Mawlai Phudmawri,  
Shillong, East Khasi Hills District,  
Meghalaya.

....**Respondents**

**BEFORE  
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH**

For the petitioner : Mr. L.Khyriem, Adv.

For the respondents :

Date of hearing : 29-06-2015

Date of Judgment : 29-06-2015

### **JUDGMENT AND ORDER (ORAL)**

Heard Mr. L.Khyriem, learned counsel appearing for the petitioner.

2. This revision petition is directed against the judgment and order of the Judge, District Council Court, dated 23-04-2015 passed in Misc. Civil Appeal No. 13/2014, wherein and whereunder the learned Appellate Court had partly allowed the appeal.

3. The concise facts of the case sufficient for deciding the present revision petition is noted. The respondents had filed the Title Suit being T.S. No. 12/2011 against the wife of the present petitioner (Smti Bettymai Syiem) in the court of the Judge, Khasi Hills District Council Court, at Shillong. The relief sought for in the said T.S. No. 12/2011 read as follows:

*“In the premises aforesaid it is, therefore prayed that your Honour may graciously be pleased to pass a judgment and order for:-*

*i) a declaration that the suit properties are the ancestral properties of the parties,*

*ii) a declaration that the defendant as the youngest daughter of the family is the custodian of the suit properties,*

*iii) a declaration that the defendant without the knowledge and consent of the plaintiffs as the next legal to the suit properties so also the defendant's only surviving brother cannot dispose of or transfer the suit properties by way of gift, sale or other mode of transfer,*

*iv) permanent injunction restraining the defendant or anybody claiming through her or on her behalf from transferring or disposing of the suit properties without the knowledge and consent of the plaintiffs and/or her brother,*

*v) for costs of this suit, and*

*vi) for any other relief(s) as this Hon'ble Court deems fit and proper."*

4. The present petitioner filed the application dated 14-03-2014 in the court of Smti. S.B.Laitthma, Presiding Officer, Subordinate District Council Court, Shillong, for impleadment as defendant as respondents who are the plaintiffs in the T.S. No. 12/2011 had made vexatious and false allegations against the present petitioner in the plaint of the T.S. No. 12/2011. For easy reference, the said application dated 14-03-2015 filed in the said court for impleadment in the T.S. No. 12/2011 is reproduced hereunder:

***"IN THE COURT OF SMTI. S.B.LAITTHMA,  
PRESIDING OFFICER, SUBORDINATE DISTRICT  
COUNCIL COURT, SHILLONG.***

***Title Suit No. 12 of 2011***

*Smti. Ivory Syiem and another                      ...Plaintiffs*

*Versus*

*Smti. Bettymai Syiem                                      ...Defendant*

***IN THE MATTER OF:***

*An application for impleadment  
of the applicant as a necessary  
parties/defendants in Title Suit  
No. 12 of 2012.*

***-AND-***

***IN THE MATTER OF:***

*Shri. John Chen,  
S/o (L) Chen Ku,  
Resident of Mawlai Phudmauri,  
Shillong, East Khasi Hills  
District.*

***....Applicant***

*-versus-*

1. Smti Ivory Syiem  
Resident of Mawlai  
Phudmawri,  
Shillong, East Khasi Hills  
District.
2. Smti Majorie Syiem,  
Resident of Mawlai  
Phudmawri,  
Shillong, East Khasi Hills  
District.

**...Opp. Parties/Plaintiffs**

**The humble application on  
behalf of the applicants  
above named...**

**MOST RESPECTFULLY SHEWETH:**

1. That the applicant herein is in the knowledge that the opposite parties/plaintiffs has filed the instant title suit against his legally married wife, Smti. Bettymai Syiem, praying for declaration and permanent injunction in respect of land at (1) Mawlai Phudmawri (Khlieh Shnong), Shillong, (2) Mawlai Mawtawar, Shillong, (3) Laitumkhrah, Shillong, (4) "Lum Syiem" situated at Umroi Nongrah, Ri Bhoi District, (5) Umtyrnah-Umroi Umdohbyrthih, Ri Bhoi District, (6) Umroi (known as Shiliang Phud Wah Umroi), Raid Mawbuh, Ri-Bhoi District, (7) Umeit-Umroi, Ri-Bhoi District, (8) Myrdon Mawdei, Myrdon Sirdarship, (9) Myrdon Nongbah (known as "Khyndew Syiem"), Myrdon Sirdarship.

2. That the applicant states that the opposite parties/plaintiffs has made vexatious and false allegations against the applicant in the Title Suit and the Show cause dated 03-03-2014 to the application dated 22-11-2013 filed by Smti Bettymai Syiem (Defendant herein) for returning of the plaint.

3. That the applicant states that the opposite parties/plaintiffs in their plaint in paragraph 9 and 13 has stated as follows:

Paragraph 9: "...and thereafter the defendant remarried one Mr. John Chen who is a foreign national by origin and as a result bore one son namely Daniel Syiem"

*Paragraph 13: "There is also terrible fear that the recent development has been done under the influence or instigation of someone more so in view of the fact that the defendant had remarried a man of foreign origin (Chinese Tibetan)."*

*The opposite parties/plaintiffs in their show cause to the application for returning of the plaint filed by the defendant in paragraph 5 has stated as follows:*

*Paragraph 5: "...therefore the deed of declaration enclosed as Annexure-A with the petition is unacceptable which is designed just to please the step father of the plaintiffs"*

*4. That the applicant state that defamatory, vexatious and false allegations have been made by the opposite parties/plaintiffs in their pleadings against him without making the applicant a party to the suit. Justice demands that a person cannot be condemned unheard. The applicant by not deliberately being arrayed party when all the allegations of wrong doing have been leveled against him will result in a travesty of justice, which is in violation of all the principles of justice and fairplay. As such for a proper and fair adjudication it is necessary that the applicant is made necessary parties to the present proceedings.*

*5. That the applicant state that the applicant being the husband of the defendant and in view of the fact that vexatious and false allegations has been made by the opposite parties/plaintiffs in their pleadings against him the applicant is vitally interested in participating and contesting the instant suit to clarify the facts and contest the allegations made in the pleadings.*

*6. That the applicant state that under the facts and circumstances aforesaid it is necessary that the applicant be impleaded as a necessary parties/defendants in the instant title suit.*

*7. That unless the applicant is impleaded as a necessary parties/defendant in the instant suit, the applicants shall suffer irreparable loss and injury.*

8. That the applicant is not recognized as member of the Schedule Tribe in the State of Meghalaya and as such in the event of the applicant's impleadment, the instant suit may be transferred or returned for trial before a Court of competent jurisdiction.

9. That this application is filed bona fide and in the interest of justice.

*In the premises it is therefore prayed that this Hon'ble Court may be pleased to pass necessary orders impleading the applicants as a necessary party/defendant in the instant suit and/or may pass such further or other order or orders as this Hon'ble Court may deem fit and proper.*

*For this act of kindness the humble applicants shall ever pray.*

*Humble Applicant"*

5. By an order dated 26-09-2014, the learned Trial Court had dismissed the said application filed by the present petitioner for impleadment as defendant in the said Title Suit i.e. T.S. No. 12/2011. Being aggrieved by the said order of the Trial Court dated 26-09-2015, the petitioner preferred an appeal being Misc. Civil Appeal No. 13/2014 which was partly allowed by directing the respondents/plaintiff to strike out under Order 6 Rule 16 CPC all the allegations made against the appellant (present petitioner) in paragraph No. 9 and 13 of the plaint as well as the allegations made in paragraph No.5 of the Show cause to the petitioner for returning the plaint filed by the defendant and amend the plaint accordingly within a period of one month from the date of receipt of the order.

6. From perusal of the plaint of T.S. No.12/2011, it is clear that the relief sought for in the said plaint is against the wife of the present petitioner who is the defendant in T.S. No. 12/2011. The interest of the present applicant, if any, in the said case in T.S. No. 12/2011 could be taken care of by his wife who is the defendant No.1 in the said Title Suit i.e. T.S. No. 12/2011.

7. Mr. L.Khyriem, learned counsel appearing for the petitioner strenuously contended that even though no relief had been sought for in the T.S. No. 12/2011 against the petitioner, he would be a proper party. This Court put a pointed question to the learned counsel appearing for the petitioner as to why the petitioner is a proper party in T.S. No. 12/2011? but no effective reply could be answered to this question except that some allegations had been made by the plaintiff in the plaint of T.S.No. 12/2011 against the present petitioner.

8. As stated above, by the impugned judgment and order dated 23-04-2015 passed in Misc.Civil Appeal No. 13/2014, all allegations made against the petitioner in the plaint of T.S. No. 12/2011 had already been deleted. Mr. L.Khyriem, learned counsel appearing for the petitioner further contended that the impugned judgment and order dated 23-04-2015 passed in Misc. Civil Appeal No. 13/2014 is only a conditional order to the effect that if the allegations and assertions against the petitioner in the plaint of T.S. No. 12/2011 had not been deleted, the petitioner should be impleaded as

defendant in the plaint of T.S. No. 12/2011. Learned counsel appearing for the petitioner fairly submitted that as per the direction of the Appellate Court in the impugned judgment and order dated 23-04-2015, all the allegations and assertions made against the petitioner in the plaint of T.S. No. 12/2011 had already been deleted.

9. It is really surprising that in the present revision petition the petitioner's wife who was the defendant in T.S. No. 12/2011 from which the present impugned judgment and order dated 23-04-2015 had been arisen has not been made party in the present revision petition.

10. It is also fairly settled law that the plaintiff is the Master of the Plaint. However, the plaint should be in compliance of the provisions under the CPC. At the pleasure of one individual, the plaintiff cannot be forced to implead that particular individual as a party in the plaint. However, who are to be made parties in the Civil Suit has already been made clear under Order 1 of the CPC and the manner of framing the suit also had been prescribed under Order 2 of the CPC. There is a distinctive difference between the necessary party and proper party. Necessary party is the one in whose absence, no effective order can be passed. Proper party is the one whose presence is required for proper decision of the matter in issue in the title suit and whose interest is required to be considered in the proceedings of the title suit.

11. In the present case as stated above, no relief is sought for in the T.S. No. 12/2011 against the present petitioner and



also the interest, if any, of the petitioner in the T.S. No. 12/2011 has already been taken care of and protected by his wife i.e. defendant against whom the relief had been sought for in T.S. No. 12/2011.

12. For the foregoing reasons, this Court is of the considered view that there is no material irregularities in passing the impugned judgment and order dated 23-04-2015 and also that the Appellate Court had rightly exercised a jurisdiction so vested on him in passing the impugned judgment and order dated 23-04-2015 and thus the present revision petition is devoid of merit and accordingly dismissed.

**JUDGE**

S.Rynjah