

Assistant District Judge, Shillong. At the very outset of hearing of the present revision petition, Mr. VK Kindal, learned senior counsel appearing for the respondents/plaintiffs strenuously contended that the present revision petition is liable to be dismissed at the threshold inasmuch as by a single revision petition, three impugned orders cannot be challenged. It is also his further submission that serious allegation had been made against the conducting counsel of the respondents i.e. plaintiffs in the civil suit and also their counsel appearing on their behalf in the trial court. In support of this contention, Mr. VK Jindal, learned senior counsel appearing for the respondents/plaintiffs had drawn the attention of this Court to the rejoinder affidavit filed by the petitioners in the present revision petition. Para 12 b, c & d read as follows:-

“12 (b). That as regards the statement of the respondents that the learned Trial Court vide order dated 23.03.2014 had recorded that the counsel for the plaintiff had submitted that there was no scope of settlement is not admitted and denied. In reply, I say that the trial court was duty bound under Order 32 A Rule 3 to assist the parties in the first instance in arriving at a settlement in respect of the subject matter of the suit but in the instant case the learned Trial Court did not make efforts for settlement and had rejected the Petition No. 556/11 without even hearing the Defendants/Petitioners. Moreover, the Answering Respondents have been occupying the suit premises without any consideration and enjoying mesne profit, therefore they had stated before the Trial Court that there was no scope for amicable settlement.

c. That the averments of the respondents that there is no statement in the revision that the Advocates for the Petitioners had submitted before the trial court in violation of proper instructions is hereby denied being not correct. In reply, I say that the Learned Trial court was required to insist the personal appearance of the parties concerned in order to know their intention for settlement of the case even without waiting for filing of the Petition No.556/11 as the Order 32 A Rue 3 is mandatory before proceeding the trial. It is further submitted that the learned Trial Court disposed off the said Petition No.556/11 without hearing as not pressed and hence the humble petitioner has filed this instant Revision Petition.

d. That the averments made by the Respondents is not admitted being not correct. In reply, I say that the Learned Trial Court was entirely based upon the statements of the Advocates on behalf of the Parties instead of insisting the personal

appearance of both sides for making efforts for settlements and the Petition No.556/11 was even not heard and disposed off as not pressed."

3. This Court is very much disturbed after reading the allegations made by the petitioners/defendants in the said rejoinder affidavit. This Court is compelled to make an observation that such type of allegation should not be made by a counsel against fellow colleague. Over and above, it is well settled principle of law that no person can be condemned unheard. In the present case, serious allegation had been made against the counsel appearing in that case without even making them as a party. Ethic demands that no allegation should be made by a member of noble profession against other member. For this reason, this Court also cautioned that the lawyer in future not to make such type of serious allegation against fellow colleague.

4. Mr. VK Jindal, learned senior counsel for the respondents/plaintiffs contended that sufficient time had been given to the present petitioners i.e. defendants No.5, 25 & 37 for filing their written statements. By drawing the attention of this Court to Order 8 Rule 1 of the CPC contended that the maximum permissible period for filing written statement is 90 days. However, it is now fairly settled that for an exceptional reason, the maximum limit for filing written statement mentioned in Order 8 Rule 1 of the CPC can be extended. This settled proposition of law is not disputed by Mr. VK Jindal, learned senior counsel appearing for the respondents/plaintiffs. However, there is no exceptional reason for extending the maximum limit of 90 days mentioned in Order 8 Rule 1 of the CPC in the present case according to Mr. VK Jindal, learned senior counsel. Keeping in view of the submissions of learned senior counsel appearing for the respondents/plaintiffs and Mr. SP Sharma, learned counsel for the petitioners i.e. defendants No.5, 25 & 37, this Court had carefully perused the copy of

the order sheets which had been annexed in the present revision petition. On careful perusal of the order sheets, it appears that sufficient time had been granted to the petitioners/defendants by the trial court for filing their written statements. This Court put questions to the parties as to the stage of the said civil suit before the trial court. Learned counsel appearing for the parties fairly submitted that the stage of the said civil suit is at the stage of settlement of issues. Therefore, it appears that the said civil suit is not at the very advanced stage. Over and above, because of certain lapses on the part of the petitioners/defendants, their right to file the written statements in the said civil suit is curtailed a serious irreparable loss shall cause to the present petitioners/defendants. In other words, their right to put up their case for effective decision of the said civil suit is to be stalled, if they are not allowed to file their written statements. In order to strike the balance between the parties and for the ends of justice, this Court is of the considered view that one more last chance should be given to the present petitioners i.e. defendants No.5, 25 & 37 to file their written statements. As considerable delay had been caused in disposal of the said suit case for non-filing of the written statements by the present petitioners i.e. defendants No.5, 25 & 37, this Court is of the considered view that such considerable delay caused by the petitioners/defendants in disposing of the said suit case is required to be compensated by the present petitioners/defendants to the respondents/plaintiffs.

5. In the above factual backdrop, this revision petition is allowed only to the extent that the petitioners i.e. defendants No.5, 25 & 37 shall be allowed to file their written statements within a period of one month from today subject to the payment of Rs.10,000/- (Rupees ten thousand) only as costs to the respondent/plaintiff. It is made clear that the trial court shall receive the written statements filed by the petitioners i.e. defendants No.5, 25

& 37 only after payment of Rs.10,000/- (Rupees ten thousand) only as costs and also it is made clear that if the written statements is not filed within 30 (thirty) days from today, the learned trial court shall not accept the written statements filed by the petitioners i.e. defendants No.5, 25 & 37. For enabling the learned trial court to receive the written statements within the period indicated above i.e. one month from today, the impugned order dated 16.05.2014 is hereby set aside and quashed.

6. Revision petition is allowed to the extent indicated above.

JUDGE

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