

THE HIGH COURT OF MEGHALAYA
CRP. No. 31 of 2016

Shri. Phordhan Marbaniang,
 S/o Late Shakni Marbaniang,
 Resident of Lower Mawprem,
 East Khasi Hills District,
 Shillong, Meghalaya.

... **Petitioner**

-Versus-

1. Shri. P. Trelly Lyngdoh,
 Son of Late Laphin Lyngdoh,
 Resident of Umsalem,
 Ri-Bhoi District, Shillong,
 Meghalaya.
2. Shri Commanly Lyngdoh Marshillong
 Son of Shri Nodron Nongsiej,
 Resident of Umsalem,
 Ri-Bhoi District, Meghalaya.
3. Shri Mor Marbaniang,
 Son of Shri Jlin Syiemiong
 Resident of Umsalem,
 Ri-Bhoi District, Meghalaya.

...**Respondents**

BEFORE
THE HON'BLE MR JUSTICE S.R.SEN

For the petitioner	:	Mr. K.Paul, Adv.
For the respondents	:	
Date of hearing	:	29.09.2016
Date of Judgment	:	29.09.2016

JUDGMENT AND ORDER (ORAL)

Heard Mr. K.Paul, learned counsel for and on behalf of
 the petitioner.

2. Brief facts of the 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 02.09.2016 passed by the Learned Presiding Officer, Sub-Ordinate District Council Court, Shillong in T.S. No. 06 of 2010 renumbered as Title Suit No. 19 of 2015 wherein the Learned Trial Court after hearing the parties dismissed the suit of the Petitioner vide Judgment and order dated 02.09.2016 mechanically relying on the observations made in the Judgment and Order dated 17.09.2014 passed by its Predecessor which had been quashed and set aside by this Hon’ble Court in CR(P) No. 27 of 2014 and thus acting without any application of its judicious mind.

Being highly aggrieved and dissatisfied with the impugned Judgment and Order dated 02.09.2016 passed in T.S. No. 19 of 2015 by the Learned Trial Court, the Humble petitioner is approaching this Hon’ble Court for redressal of his genuine grievance.”

3. Mr. K.Paul, learned counsel for the petitioner submits that inspite of setting aside the judgment and order dated 17-09-2014 and directing the Sub-Ordinate District Council Court to hear both the parties and decide the matter afresh, the learned Court below ignoring the judgment and order passed by this Court dated 31-07-2015 in CRP. No. 27 of 2014 relied on the judgment and order which had already been set aside by this Court in the said judgment. Being aggrieved, the petitioner again approached this Court.

4. In the judgment and order dated 31-07-2015 passed in CRP. No. 27 of 2014, this Court clearly recorded in para 9 of the said judgment that the impugned judgment and order dated 17-09-2014 passed in T.S. No. 6 of 2010 has been set aside and directed the Presiding Officer to hear the parties

afresh and to pass judgment as per the CPC and guidelines given by the Hon'ble Apex Court quoted in the said judgment. Para 9 of the judgment passed by this Court is reproduced herein below:

“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.”

5. On perusal of the impugned judgment dated 02-09-2016 at Annexure - 3 at page 114 annexed with the petition, it appears and is understood that the learned Court below failed to understand the contents of the judgment and order passed by this Court dated 31-07-2015. It is a basic principle that when a judgment is set aside and a direction is given to hear the matter afresh, the Court should not refer to the judgment which has already been set aside. I further make it clear that when the judgment and order dated 17-09-2014 has already been set aside by this Court, the Presiding Officer should not have relied on that judgment and when a direction is given to hear the matter afresh, the Sub-Ordinate Court is bound to follow the judgment in letter and spirit. Further it is made clear to the Presiding Officer that she should hear and decide the matter afresh and if necessary, to frame fresh issues and pass necessary judgment and order without being influenced or by relying on the judgment and order dated 17-09-2014 as the same has already been set aside and it is of no value.

6. With this observation and direction, the petition is allowed and stands disposed of. The matter is remanded back to the learned Sub-Ordinate District Council Court to do the needful as directed above and to dispose the matter within 2(two) months from the date of receipt of the certified copy of this judgment and order. Accordingly, the judgment and order dated 02-09-2016 also stands set aside.

JUDGE

S.Rynjah