

Put in a nutshell, the relevant background aspects of the matter are that the respondent herein has filed a Title Suit bearing No.1 of 2015 before the Subordinate District Council Court, Tura against the present petitioners. It appears that on 21.07.2015, while putting in appearance in response to the summons in the suit aforesaid, the present petitioners-defendants chose to file their so-called written objections on the jurisdiction of the Subordinate District Council Court with reference to Rule 21 of the Garo Hills Autonomous District (Administration of Justice) Rules, 1953 [‘the Rules of 1953’] but then, in the order-sheet dated 21.07.2015, the Trial Court cursorily mentioned that the written statement (W/S) was filed; and the matter was fixed on 08.09.2015 for ‘filing of suggested issues/steps’.

However, the petitioners chose to remain absent on 08.09.2015 and the learned Judge, Subordinate District Council Court proceeded to reject the objections filed by them after having heard the learned counsel for the plaintiff; and then, adjourned the matter for filing of suggested issues. It appears further that on the next day i.e., 09.09.2015, though the matter was not fixed in the Court but the petitioners filed their written statement. It is the case of the petitioners that they had also filed an application seeking recall of the order dated 08.09.2015 and when the same was not considered, they moved another application on 03.11.2015 for rehearing the matter on their objections but such a prayer was declined on 16.02.2016, without any specific written order to that effect. Thereafter, the petitioners attempted to assail the order dated 08.09.2015 by way of an appeal under Rule 30 of the Rules of 1953. In response to the queries of the Court, learned counsel for the petitioners has candidly submitted that the said appeal was filed on 12.04.2017.

The learned Judge, District Council Court, proceeded to dismiss the appeal so filed by the petitioners by way of the impugned order dated 28.06.2017 while pointing out that the appeal was definitely barred by time and there was not even a prayer for condonation of delay. The learned Judge observed, inter alia, as under:-

“5. Appeal is basically against the order dated 08.09.2015 and the appeal was filed after lapsed of statutory appeal period of 60 days, without applying for condonation of delay. The appeal is definitely time barred and that cannot be condoned as there is no such petition or prayer for condonation of delay.”

Learned counsel for the petitioners could not dispute this position that the appeal before the Judge, District Council Court was barred by time and no application for condonation of delay was filed. However, learned counsel would argue that the Trial Court has proceeded in this matter in a wholly cursory manner where even the objection petition filed by the petitioners on

the first date of appearance was referred as the written statement; where the objections of the petitioners were examined on 08.09.2015 when the matter was not even fixed for hearing on the objections; where the application made by the petitioners for recalling the ex parte order was cursorily declined without specific order to that effect; and where the provisions applicable to the case were not examined at all.

Having given anxious consideration to the submissions made and having examined the material placed on record, this Court is not persuaded to entertain this revision petition but it appears appropriate to make the necessary observations for proper course of future proceedings in the case.

No doubt, the order-sheets as drawn in this matter by the Trial Court appear to be wanting in the requisite accuracy but for the present purpose, such want of precision cannot operate against the substance of the matter. It is difficult to accept the submissions of the learned counsel for the petitioners that on the given date i.e., 08.09.2015, the matter was not fixed for consideration of the objection petition but was fixed for filing of suggested issues and hence, the Trial Court acted illegally in considering and deciding the objections relating to the question of jurisdiction. Even if the order-sheet of the Trial Court indicates that the matter was fixed on 08.09.2015 for filing of suggested issues while assuming as if the petitioners had filed the written statement, it remains indisputable that the petitioners were aware of the date fixed in the matter. For whatever purpose the matter was fixed, the petitioners cannot suggest that they were entitled to remain absent in the Court on the date so fixed and known to them. It does not appear that the Trial Court had set the matter ex parte for further proceedings. In fact, the petitioners did appear on the very next day i.e., 09.09.2015, though the matter was not as such fixed in the Trial Court, and

filed their written statement. This Court would not be making any other comment on the matters not reflected in the order-sheets and even on the course adopted by the petitioners. Suffice it to observe for the present purpose that the objection petition was taken up on the date fixed in the matter and was rejected by the Trial Court after examining the record and hearing the counsel for the plaintiff (respondent herein).

As regards the appeal sought to be maintained by the petitioners before the Judge, District Council Court, this Court is clearly of the view that when the statutory rules specifically provide for the period of limitation for filing the appeal and no prayer for condonation had been made in the grossly time-barred appeal, the Appellate Court had no option but to dismiss the appeal on that count alone. Therefore, there appears no irregularity or illegality in the impugned order dated 28.06.2017, particularly in the passage reproduced hereinabove, whereby the appeal was dismissed as barred by limitation.

In the last, learned counsel for the petitioners has attempted to suggest that the trial of the matter by the Subordinate District Council Court at Tura is not in accord with Rule 21 of the Rules of 1953 and such a suit could have been filed only in the Village Court at Resubelpara and therefore, irrespective of any other order, this Court may exercise the jurisdiction of transferring the trial per Section 24 of the Code of Civil Procedure ['CPC']. According to the learned counsel, such a course of transferring the suit is necessary for the reason that there had been previous proceedings between the parties, including those pertaining to Section 145 CrPC at Resubelpara; and the property in question is also situated within the jurisdiction of the Village Court at Resubelpara, North Garo Hills.

The submissions so made, for transfer of the matter, might have been given consideration under any other circumstance, but in the present matter and at the present stage, when the question of jurisdiction as raised by the petitioners stands rejected, this Court finds no reason to transfer the matter under Section 24 CPC. The prayer in this regard also stands rejected.

For what has been discussed and observed hereinabove, this revision petition is required to be dismissed. However, before parting with the matter, it appears appropriate to observe that when the Appellate Court found that the appeal was barred by time and there was no prayer for condonation of delay, the appeal was required to be dismissed on that count alone with the result that the appeal was not entertained at all. When the appeal was not entertained at all, it was not expected of the Appellate Court to make any other observation which might be reflective of its views on the merits of the issues involved. Therefore, it appears appropriate to observe that even if the appeal filed by the petitioners has been dismissed as barred by time and this revision petition is also being dismissed by this Court, the Trial Court shall be expected to otherwise proceed with the matter strictly in accordance with law, without being influenced by any other observation made by the Appellate Court.

Subject to the observations foregoing, this revision petition stands dismissed.

CHIEF JUSTICE