

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

CRP(C.R.P. Art. 227) No. 48 of 2018

The Manipur Mountaineering and Trekking Association (MMTA) having Registration No. 3233 of 1980 as registered under the Manipur Society Registration Act, 19.... and having its Head office at Minuthong West, Southern Gate side of Khuman Lampak Sport Complex P.Ol. & P.S. Imphal in Imphal West District, Manipur.

Represented herein by its Secretary, Shri Sagolsem Jiten Mangang, aged about 50 years, S/o (L) Mithailal Meitei a resident of Naoremthong Laishram Leikai, P.O. & P.S. Lamphel, Imphal West District.

..... Revision Petitioner

- Versus -

1. Shri Maringmei Acham, aged about 62 years, S/o (L) Maringmei Thaitoungam, a resident of Lamdan Village, P.O. Loktak H.E. Project P.S. Loktak Project, Henglep Sub-Division, Churachandpur District, Manipur.
2. Shri G. Athain aged about 48 years, S/o G. Kajusingpu, and a resident of Lamdan Village, P.O. Loktak H.E. Project P.S. Loktak Project, Henglep Sub-Division Churachandpur District, Manipur.
3. Shri Maringmei Philip aged about 50 years, grandson of Maringmei Aring, and a resident of Lamdan Village, P.O. Loktak H.E. Project P.S. Loktak Project, Henglep Sub-Division, Churachandpur District, Manipur.

..... Respondents

**BEFORE
HON'BLE THE CHIEF JUSTICE MR. RAMALINGAM SUDHADAKAR**

For the petitioner	:	Mr. N. Umakata, Advocate
For the respondents	:	Mr. S. Abung, Advocate
Date of hearing & order	:	26.09.2018

ORDER

[1] Heard Mr. N. Umakanta, learned counsel appearing for the petitioner and Mr. S. Abung, learned counsel appearing for the respondents.

[2] This civil revision petition has been filed challenging the single line orders passed by the Civil Judge Junior Division, Churachandpur in Original (Injunction) Suit No. 12 of 2011 on 04.01.2018 and 05.07.2018 (Annexure-A/7 & A/8) which read as follows :

"IN THE COURT OF CIVIL JUDGE JR. DIVISION, CHURACHANDPUR, MANIPUR

Original (Injunction) Suit No. 12 of 2011

The Manipur Mountaineering and Trekking Association

.... Petitioner/Plaintiff

- Versus -

Shri Maringmei Acham and two others.

..... Defendants

CERTIFIED COPY OF THE ORDER DATED 04.01.2018

Present :

Plaintiff by Ld. Counsel.

Def. No. 1 with Ld. Counsel.

Main suit is kept in abeyance till disposal of J.M. Case Nos. 17 of 2013 and 68 of 2017.

Sd/-

(Letkho Kipgen)

*i/c, Civil Judge Junior Division
Churachandpur"*

"IN THE COURT OF CIVIL JUDGE JR. DIVISION, CHURACHANDPUR, MANIPUR

Original (Injunction) Suit No. 12 of 2011

The Manipur Mountaineering and Trekking Association

.... Petitioner/Plaintiff

- Versus -

Shri Maringmei Acham and two others.

..... Defendants

CERTIFIED COPY OF THE ORDER DATED 04.01.2018

On disposal of J.M. Case 38 of 2018 and 39 of 2018 main suit is put today.

Present :

Plaintiff by Ld. Counsel.

Def. No. 1 with Ld. Counsel.

Put up after disposal of J.M. Case No. 17 of 2013.

*Sd/-
(Letkho Kipgen)
i/c, Civil Judge Junior Division
Churachandpur"*

[3] The respondents in this civil revision petition are the defendants in the pending suit objecting to the conduct of revision petitioner/plaintiff allegedly violating the status quo order dated 08.12.2011 and the subsequent orders. It is alleged that plaintiff/civil revision petitioner has tried to encroach into the property by bringing JCB excavator, Bulldozer, Tata Tipper etc. and are digging ponds, constructing roads and also other structures. In this regard, the respondents/defendants filed Judicial Misc. Case No. 17 of 2013 invoking Order 39 Rule 2-A of CPC to detain the plaintiff for violation of the status quo order. It appears that the defendant also filed Judicial Misc. Case No. 39 of 2014 against plaintiff for disobeying the order of Court invoking Order 39 Rule 2-A of CPC. Challenging the suit abeyance order, this civil revision petition is filed.

[4] Mr. N. Umakanta, learned counsel appearing for the revision petitioner/plaintiff states that one more Judicial Misc. Case No. 48 of 2018 is also filed which is also on the same lines but that is not the issue in the present case.

[5] The plea of Mr. N. Umakanta, learned counsel appearing for the revision petitioner/plaintiff is that on the basis of vague allegations and without any material, the Judicial Misc. Case is filed. He seeks interference of this Court in exercise of Power under Article 227 of the Constitution of India. He pleads that he is willing to participate in the conduct of the Judicial Misc. Case without seeking adjournment. At the same time he prays that the suit should also go on because the trial has already commenced.

[6] Mr. S. Abung, learned counsel appearing for the respondent/defendant pleads that despite status quo order, revision petitioner/plaintiff who is a powerful entity is trying to change the character of the suit land. The rights of the villagers will be affected. Therefore, the Court below was justified in not proceeding with the suit pending Judicial Misc. Case filed in terms of Order 39 Rule 2-A of CPC. The learned counsel appearing for the respondent/defendant states that supporting documents are filed before the Court below. If proper opportunity is given, he can safeguard the property pending the trial of the case. Learned counsel states that while they prosecute the Judicial Misc. Case primarily to safeguard the property have no objection for conducting of the suit as well.

[7] At the outset, it is to be noticed that the Civil Judge Junior Division has not given any reason as to why the main suit should be kept in abeyance except stating that Judicial Misc. Case No. 17 of 2013 is pending. Therefore, the suit should be kept in abeyance. Such a non-speaking order should not be passed. This will lead to unwanted litigation as in this case.

[8] Having heard the learned counsel of both the parties, this Court is of the view that while it is necessary to safeguard the suit property pending trial, It is also necessary to ensure that in the guise of the Judicial Misc. Case, the suit proceeding should not be stopped. There is no interdict for the Court below to proceed with the Judicial Misc. Case No. 17 of 2013 or 39 of 2014 or 48 of 2018 all filed under Order 39 Rule 2-A of CPC. It is the plea of the plaintiff that the suit should be decided at the earliest because the trial has already commenced. The Trial Court can proceed with the Judicial Misc. Case and dispose of it before 16.11.2018 and can also go ahead with trial of the suit.

[9] Both the learned counsel for the parties agree for disposal of the Judicial Misc. Case. The plaintiff/revision petitioner also agrees to co-operate with the disposal of the case preferably within 16.11.2018. The Trial Court is also directed to take up the suit for trial on regular basis.

[10] With the above observation and direction, petition stands disposed of.

CHIEF JUSTICE

FR/NFR

bipin