

Item no. 5

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

Mat.App.No. 3 of 2018

1. Mrs. Suhana Begum, aged about 30 years, W/O late Md. Ayub Khan, a resident of Yairipok Changamdabi Makha Leikai, P.O Yairipok, P.S. Andro, Imphal East District, Manipur

.... Appellant

-Versus -

1. Mrs. Bariya Bibi, aged about 53 years, W/O Md. Salauddin, a resident of Yairipok Ningthounai, P.O. Yairipok, P.S. Andro, Imphal East District, Manipur.
2. Md. Salauddin, aged about 65 years, S/O Haji Syed Ahmed, a resident of Yairipok Ningthounai, P.O. Yairipok, P.S. Andro, Imphal East District, Manipur.

.... Respondents

BEFORE
**HON'BLE THE CHIEF JUSTICE MR. RAMALINGAM SUDHAKAR
HON'BLE MR. JUSTICE KH. NOBIN SINGH**

For the appellant	::	Mr. M. Rakesh, Advocate.
For the respondents	::	Mr. N. Jotendro, Sr. Advocate. Ms. MC Linthoingambee, Advocate.
Date of Order	::	28.02.2019.

O R D E R

CJ

[1] Heard Mr. M. Rakesh, learned counsel appearing for the appellant. Heard also Mr. N. Jotendro, learned Sr. Counsel assisted by Ms. MC Linthoingambee, learned counsel for the respondents.

[2] Mr. Jotendro, learned Sr. counsel for respondent raised an objection that relevant documents are not filed. The relevant and important document on the basis of which the appellant seeks to challenge is the proceeding of the Lower Court is exhibit A/9. The original copy of the agreement dated 21.01.2017 entered between the petitioner and the principal respondent has not been produced as annexure to the appeal. The portion of the agreement dated 21.01.2017 is recorded by the Lower Court and it reads as follows:-

"(i) The principal respondent will received any suitable post under the die-in-harness scheme in respect of death of Md. Ayub Khan.

(ii) Both the parties to the agreement will received the ex-gratia compensation amount of Rs,20,00,000/- where each will received Rs. 10,00,000/- as guardians on behalf of the two children respectively of late Md. Ayub Khan."

[3] The learned counsel for the appellant does not dispute such an agreement. However, he fairly states that he has not placed the said document on file of the appeal for the appreciation of the Court.

[4] In the absence of relevant document the appellants plea for hearing the matter on merits will have no meaning because the Court will not be able to render in finding on merits. **In (2014) 4 SCC 693; Rajasthan State Road Transport Corporation and Another vs. Bajrang Lal**, the Apex Court, in similar facts, held as follows:

"14. It is a settled proposition of law that a party has to plead the case and produce/adduce sufficient evidence to

substantiate his submissions made in the plaint and in case the pleadings are not complete, the court is under no obligation to entertain the pleas. (Vide Larsen & Toubro Ltd. v. State of Gujarat⁷; National Building Construction Corpn. v. S. Raghunathan⁸; Ram Narain Arora v. Asha Ran⁹; Chitra Kumari v. Union of India¹⁰ and State of U.P.v. Chandra Prakash Pandey¹¹.)

15. In Atul Castings Ltd. v. Bawa Gurvachan Singh¹² this Court observed as under: (SCC p. 140, para 12)

"12. The findings in the absence of necessary pleading and supporting evidence cannot be sustained in law."

(See also Vithal N. Shetti v. Prakash N. Rudrakar¹³; Devasahayam v. P. Savithramma¹⁴; Sait Nagjee Purushotham & Co. Ltd. v. Vimalabai Prabhulal¹⁵; Rajasthan Pradesh Vaidya Samiti v. Union of India¹⁶ (SCC p. 617, para 17); Ritesh Tewari v. State of U.P.¹⁷ and Union of India v. Ibrahim Uddin¹⁸.)"

(Emphasis supplied)

[5] In the present case as admitted by appellant counsel, the appeal is incomplete. At request, the appeal is returned for filing the same in the proper form. Appeal rejected with liberty as above.

JUDGE

CHIEF JUSTICE

Thoiba