

**Serial No. 01**  
**Supplementary List**

**HIGH COURT OF MEGHALAYA**  
**AT SHILLONG**

CRP No. 37 of 2020

Date of Decision: 31.05.2022

Smti Shrial Syiem & Ors. Vs. Klestina Syiem & Anr.

**Coram:**

**Hon'ble Mr. Justice H. S. Thangkhiew, Judge**

**Appearance:**

For the Petitioner(s)/Appellant(s) : Mr. V.G.K. Kynta, Sr. Adv. with  
Ms. C. Nongkhlaw, Adv.

For the Respondent(s) : Mr. R.S. Myrthong, Adv.  
Mr. F. Shangpliang, Adv.

- |     |  |        |
|-----|--|--------|
| i)  | Whether approved for reporting in<br>Law journals etc: | Yes/No |
| ii) | Whether approved for publication<br>in press:          | Yes/No |

**JUDGMENT AND ORDER**

1. This application under Article 227 of the Constitution of India read with clause 6 of the High Court of Meghalaya (Jurisdiction over District Council Courts) Order, 2014 has been preferred against the Judgment dated 02.09.2020 passed by the learned Judge, District Council

Court, Khasi Hills in Misc. Civil Appeal No. 3 of 2017, upholding the order dated 05.12.2016 passed by the learned Trial Court in Title Suit No. 8 of 2009.

2. The brief facts are that the learned Trial Court by the order dated 05.12.2016, had allowed and admitted 20 photo copies of documents filed by the respondents/plaintiffs at the stage of framing of issues which the petitioner/defendant contends is contrary to Order 7 Rule 14 of the CPC. On appeal before the Court of the Judge, District Council Court, the same was upheld by Judgment dated 02.09.2020. The petitioner thereby being aggrieved, is before this Court, and has put a case that the said documents filed by the plaintiffs are neither part of the Complaint, nor any reference made to them in the pleadings and that the impugned order allowing the introduction of these documents has the effect of changing the entire course and nature of the Suit without even the Complaint being amended.

3. The short point that is to be decided in the instant revision is whether the Courts below were correct in allowing additional documents to be filed which are not part of the Complaint at the stage of framing of issues, notwithstanding the fact that before the District Council Courts, the CPC is not applied in letter, but in spirit and as such, in the facts and circumstances of the case, whether the learned Courts below were

justified in not adhering to the provisions of Order 7 Rule 14 (3) of the CPC which has laid down as follows:-

***“14. Production of document on which plaintiff sues or relies.-***

***(1) .....***

***(2) .....***

***(3) A document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.”***

4. Mr. V.G.K. Kynta, learned Senior counsel assisted by Ms. C. Nongkhlaw, learned counsel for the petitioners submits that the said documents sought to be introduced, were without the leave of the Court, nor with any amendment to the Plaint and pleadings, and are not even remotely mentioned in the Plaint in any manner. It is further submitted that the said documents are not the originals of the documents that have been filed along with the Plaint or written statement, as provided under Order 13 Rule 1 CPC. It is then contended by the learned Senior counsel that irrespective of the stage of the proceeding of a Suit, no document can be produced other than in the manner given under Order 7 Rule 14 CPC and that by the impugned orders, the Courts below have adopted a procedure unknown to law and though only the spirit of the CPC is applicable, the said orders have caused grave prejudice to the

petitioners/defendants and has occasioned severe miscarriage of justice. He lastly submits that the spirit applied should be such, to ensure fairness and justice; and it is of paramount importance that these judicial institutions adopt a standard procedure which will not prejudice any party in the conduct of such proceedings. Learned Senior counsel on the point of submission of additional documents, has cited the case of ***Chakreshwari Construction Private Limited v. Manohar Lal*** reported in ***(2017) 5 SCC 212***.

5. Mr. R.S. Myrthong, learned counsel for the respondents in reply submits that the documents had been filed prior to the stage of evidence, while the issues are being framed and as such no prejudice can be said to have been caused to warrant any interference by this Court. Learned counsel submits that *Rule 47 of The United Khasi-Jaintia Hills Autonomous District (Administration of Justice) Rules, 1953* has clearly stipulated that the District Council Courts shall be guided by the spirit and not bound by the letter of the Code of Civil Procedure in all matters not covered by customary laws. To buttress his submissions, the learned counsel has relied upon the case of ***Westerly Dkhar and ors. vs Sehekaya Lyngdoh*** reported in ***(2015) 4 SCC 292***, wherein he submits the Supreme Court has noted that application of the CPC in the District Council Courts as given in *Rule 47 of The United Khasi-Jaintia Hills Autonomous*

*District (Administration of Justice) Rules, 1953*, was to be in spirit only. He lastly submits that in this context therefore, the orders passed by the Courts below can neither be said to be illegal or to suffer from any procedural defect as these orders have been passed by the application of the judicial mind of the Courts as to the applicability of only the spirit of the CPC.

6. Having heard the learned counsels for the parties, it is firstly to be noted that it is a fact that District Council Courts in their duty and functions of dispensation of justice and adjudication of such matters, are bound not by the letter, but by the spirit of the CPC. A perusal of the orders impugned herein, however reflect that firstly, the order 05.12.2016 passed by the trial Court, while noting the objections of the petitioner as to the requirements of Order 7 Rule 14, has only on the point that the Suit having not proceeded for evidence and that issues were yet to be framed, allowed the list of documents to be admitted and to form part of the record. The appellate order of the Judge, District Council Court dated 02.09.2020, while upholding the order of the Trial Court observed that Order 7 Rule 14 (3) CPC had been complied with by the respondent/plaintiff, and that no prejudice would be caused to the petitioner/defendant if the documents were allowed, as the stage of

evidence was yet to commence and that the defendant still had ample opportunity to question and challenge the said documents.

7. In the normal consideration of such matters, by the application of the CPC, the law permits parties to file additional evidence at any stage of the trial, by an application under Order 7 Rule 14(3), with the leave of the Court. In the instant case, the documents that were sought to be introduced by the plaintiffs was admittedly at the time of filing of suggested issues. On objections being filed thereto, on the ground that the list of documents did not form a part of the Complaint or pleadings, was without leave of the Court, or as per the provision of Order 13 Rule 1 CPC, the Trial Court only on the ground that the Suit was yet to proceed for evidence, allowed the introduction of the documents, which was thereafter upheld by the appellate Court.

8. Order 7 Rule 14 (3) of the CPC, provides that a document which ought to be produced in Court by the plaintiff when the complaint is presented, or to be entered in the list to be added or annexed to the complaint but is not produced or entered accordingly, shall not, without the leave of the Court be received in evidence on his behalf at the hearing of the suit. The scope of Order 7 Rule 14 (3) is very clear as to the duties of the plaintiff and the requirement that must be fulfilled in such circumstances. What has been occasioned in the instant case is that without the

documents being part of the plaint or pleadings or referred to therein, and without leave of the Court, the documents were introduced, accepted and admitted for evidence, only on the ground that the proceedings were yet to enter the stage of evidence. It is also to be noted that while allowing the said documents, no consideration was given by the Courts below, to important factors and aspects which would have had a crucial bearing on the matter, such as 'whether the said documents' :-

- (i) would change the nature of the suit
- (ii) would introduce a fresh cause of action
- (iii) were relevant for deciding the questions/issues raised and
- (iv) whether it would cause prejudice to the other side.

9. Both the Courts below did not examine relevant factors and did not go into the meat of the matter, in considering whether the documents should be allowed to be introduced. In fact, the appellate Court found that Order 7 Rule 14 (3) had been complied with, only on the point that the lower Court had allowed the introduction of the said documents. Though as contended by the respondent/plaintiff that only the spirit of the CPC is applicable, nowhere in the impugned orders has this aspect as to how the procedure laid down in CPC should have been followed in spirit, been deliberated at all. It is correct that the law makers while enacting *Rule 47 of The United Khasi-Jaintia Hills Autonomous*

*District (Administration of Justice) Rules, 1953* had done so, as not to burden the tribal litigants with the technicalities of procedural law, but this provision was not meant to be used, or taken shelter of, to do away totally with adherence to the *fundamental principles of judicial procedure* and allow injustices to be caused.

10. In allowing the said introduction of new documents, the Courts below should have considered the larger perspective of prejudice not being caused to either party, as detailed in the earlier part of this judgment as to whether the nature, cause and course of the suit would be changed, and should have examined the matter in its totality keeping the spirit of the CPC in mind. Even if the procedure is not to be bound by the letter of the CPC, the procedure adopted should ensure certainty and definiteness and should not lead to a situation that would handicap, or put the other party to a disadvantage, or result in the violation of the Principles of Natural Justice.

11. In view of these circumstances, this revision application is allowed, and the impugned orders dated 02.09.2020 and 05.12.2016 are set aside and quashed. The judgment placed by the respondents i.e., ***Westerly Dkhar and ors. vs Sehekaya Lyngdoh(supra)*** being on a different footing as it deals with the interpretation of the procedure prescribed in *Rule 28 of The United Khasi-Jaintia Hills Autonomous*



*District (Administration of Justice) Rules, 1953, vis-a-vis* the provisions of the CPC, will not be applicable in the instant case.

12. However, looking into the matter and in the interest of justice, it is provided that the respondent/plaintiff, shall be allowed to put in appropriate applications seeking introduction of the said documents and the same shall be disposed of in accordance with law keeping in mind the observations and directions contained in this judgment, especially on the application of the spirit of the CPC to ensure the observance of the fundamental principles of judicial procedure.

13. Before parting with the records, it is important to add that the findings and observations rendered in this judgment are on the basis of the facts and circumstances of this case itself, and the manner of application of the Spirit of the CPC should be based on the peculiar facts of each case and should not lead to injustice being caused to parties.

14. The matter accordingly stands disposed of with no order as to costs.

15. Lower Court case records be transmitted back immediately.

**JUDGE**

Meghalaya  
31.05.2022  
"V. Lyndem-PS"