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IN THE HIGH COURT OF MANIPUR AT IMPHAL

(1). MAT.APP.CASE NO.2 OF 2019
Ref : JUDL. MISC. CASE NO.24 OF 2019
Ref : MAT (DECLARATION) SUIT NO.16 OF 2017

Ms. Ruby Soram, aged about 22 years, D/O (Late) Soram Indubala Devi of Uripok Sorbon Thingel, P.O. & P.S. Imphal, Imphal West District, Manipur – 795001.

..... ***Appellant/s***

– **Versus** –

Smt. Lairenmayum Ningol Akoijam Ongbi Roma Devi, aged about 42 years, W/O Akoijam Kiran Singh, of Kwakeithel Konjeng Leikai, P.O. Imphal & P.S. Singjamei, Imphal West District, Manipur – 795001.

.... ***Respondent/s***

IN JUDL. MISC. CASE NO.24 OF 2019

Ms. Ruby Soram, aged about 22 years, D/O (Late) Soram Indubala Devi of Uripok Sorbon Thingel, P.O. & P.S. Imphal, Imphal West District, Manipur – 795001.

..... ***Applicant/s***

– **Versus** –

Smt. Lairenmayum Ningol Akoijam Ongbi Roma Devi, aged about 42 years, W/O Akoijam Kiran Singh, of Kwakeithel Konjeng Leikai, P.O. Imphal & P.S. Singjamei, Imphal West District, Manipur – 795001.

.... ***Respondent/s***

IN MAT (DECLARATION) SUIT NO.16 OF 2017

Smt. Lairenmayum Ningol Akoijam Ongbi Roma Devi, aged about 42 years, W/O Akoijam Kiran Singh, of Kwakeithel Konjeng Leikai, P.O. Imphal & P.S. Singjamei, Imphal West District, Manipur – 795001.

..... Plaintiff/s

– Versus –

1. Ms. Ruby Soram, aged about 22 years, D/O (Late) Soram Indubala Devi of Uripok Sorbon Thingel, P.O. & P.S. Imphal, Imphal West District, Manipur.
2. The State of Manipur represented by the Secretary (Lab & Employment), Govt. of Manipur.
3. The Secretary/Joint Secretary (Finance/Pension Cell), Govt. of Manipur, Imphal.
4. The Accountant General (A&E), Manipur.
5. The Addl. Director of Employment, Employment Exchange Complex, Lamphelpat, Imphal West.
6. The Secretary to the Government of India, Ministry of Finance & Banking Services, New Delhi.
7. The Chief General Manager, State Bank of India, Paona Bazar Branch, Imphal.
8. The Branch Manager, State Bank of India, Paona Bazar Branch, Imphal.
9. Shri Lairenmayum Surendro Singh @ Achou Singh, aged about 74 years of Uripok Sorbon Thingel, P.O. Imphal, Imphal West District, Manipur.

.... Respondent/s

(2). With MC(MAT.APP.)CASE NO.13 OF 2018
Ref : MAT.APP. CASE NO.13 OF 2018

Ms. Ruby Soram, aged about 22 years, D/O (Late) Soram Indubala Devi of Uripok Sorbon Thingel, P.O. & P.S. Imphal, Imphal West District, Manipur – 795001.

.... Applicant/s

Smt. Lairenmayum Ningol Akoijam Ongbi Roma Devi, aged about 42 years, W/O Akoijam Kiran Singh, of Kwakeithel Konjeng Leikai, P.O. Imphal & P.S. Singjamei, Imphal West District, Manipur – 795001.

.... Respondent/s

(3). With MAT.APP.CASE NO.13 OF 2018
Ref : JUDL. MISC. CASE NO.90 OF 2018
MAT (ORIGINAL/DECLARATION) SUIT NO.16 OF 2017

Ms. Ruby Soram, aged about 22 years, D/O (Late) Soram Indubala Devi of Uripok Sorbon Thingel, P.O. & P.S. Imphal, Imphal West District, Manipur – 795001.

.... Appellant/s

Smt. Lairenmayum Ningol Akoijam Ongbi Roma Devi, aged about 42 years, W/O Akoijam Kiran Singh, of Kwakeithel Konjeng Leikai, P.O. Imphal & P.S. Singjamei, Imphal West District, Manipur – 795001.

.... Respondent/s

BEFORE
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

For the Petitioner/s : Mr. K. Roshan, Advocate
For the Respondent/s : Ms. Juliana, Advocate representing
Mr. Kh. Chonjon, Senior Advocate
Date of Hearing : 31.03.2023
Date of Judgment & Order : **29.05.2023**

JUDGMENT & ORDER
(CAV)

A. Guneshwar, J. :

[1] The appeals and the application are considered jointly as arising out of the same suit being Mat. (Declaration) Suit No. 16 of 2017. The appellant/defendant No.1 has filed Mat. Appeal Case No.2 of 2019 challenging the impugned order dated 04.04.2019 passed by the Ld. Family Court, Manipur at Lamphelpat in Judl. Misc. Case No.24 of 2019 [Ref: Mat. (Declaration) Suit No.16 of 2017] whereby the application filed by her questioning maintainability of the suit was dismissed. In Mat. Appeal No.13 of 2018, the appellant/defendant No.1 herein also challenged the impugned order dated 04.09.2018 in Judl. Misc. Case No.90 of 2018 [Ref: Mat. (Declaration) Suit No.16 of 2017] passed by the Ld. Family Court, Manipur at Lamphelpat thereby rejecting the prayer to file written

statement after 390 days. The Misc. Case, being MC(Mat.App.) No.13 of 2018, is the application for condoning delay of 466 days in filing Mat. Appeal No.13 of 2018.

[2] The brief fact of the case in the nutshell is that the respondent/plaintiff herein filed a suit for declaration, ie, Mat.(Declaration) Suit No.16 of 2017 before the Ld. Family Court, Manipur *inter-alia* praying for declaring herself as the only daughter and legal heir of her mother (late) Soram Indubala Devi and for declaring that appellant/defendant No.1 was not adopted by and not a legal heir of the plaintiff's mother, i.e. Soram Indubala Devi and for cancellation of the deed of adoption dated 12.09.2012. The prayer in the suit is produced below:

- “(i) A decree declaring that the plaintiff Lairenmayum Ningol Akoijam Ongbi Roma Devi is the only daughter (natural/biological) and the legal heir of her mother late Soram Indubala Devi, retired Technical Assistant of the Office of the Addl. Director of Employment (Employment Exchange Complex), Lamphelpat, Imphal West;*
- (ii) A decree declaring that the defendant No.1 Ruby Soram was not adopted and not legal heir of plaintiff's mother late Soram Indubala Devi;*
- (iii) A decree for cancellation of the said deed of adoption dated 12.9.2012 with orders to deliver up the said deed of adoption;*

- (iv) *Cost of the present suit;*
- (v) *Any other relief(s) for refund of the sum of Rs. 6,08,025/- being the G.P.F. Balance and the interest received by her as the Hon'ble Court deems fit, just and expedient in law and equity."*

[3] The appellant/defendant No.1 filed an application, being Judl. Misc. Case No.24 of 2019 *inter-alia* raising maintainability of the Mat. (Declaration) Suit No.16 of 2017 that the Ld. Family Court has no jurisdiction to entertain the suit under Section 7(1) explanation (c) and (e) of the Family Court Act, 1984 and the suit was barred by limitation under Article 57 & 58 of the Limitation Act, 1963 as the suit was filed after 3(three) years of the knowledge of the adoption. Vide the impugned order dated 04.04.2019 in Judl. Misc. Case No. 24 of 2019, the Ld. Family Court, Manipur held that the Family Court has jurisdiction to try the suit for declaration of the respondent/plaintiff as the only daughter of (late) Soram Indubala Devi.

[3.1] Being aggrieved by the impugned order dated 04.04.2019, the appellant/defendant No.1 approached this Court by way of Mat. Appeal Case No.2 of 2019, *inter-alia*, on the ground that provisions of the Family Court Act to be applicable when there is a valid marriage or marital relation between the parties. It is stated that there was no marital relation between the parties and the suit was also barred by limitation. The respondent/plaintiff filed written argument

stating that the Family Court has the jurisdiction to try this matter and the adoption deed was void as the appellant/defendant No.1 was using her biological parents' names in the matriculation examination passed after the date of the alleged adoption and she was more than 15 years old on the date of the alleged adoption.

[3.2] Earlier the appellant/defendant No.1 also filed an application being Judl. Misc. Case No.90 of 2018 before the Family Court for allowing her to file written statement after lapse of 390 days and the said application was dismissed vide order dated 04.09.2018 being devoid of merit. Against the impugned order dated 04.09.2018, the appellant/defendant No.1 filed Mat. Appeal No. 13 of 2018 along with an application for condoning of delay being MC(Mat. Appeal) No.13 of 2018 for condoning delay of 461 days in filing the Mat. Appeal No.13 of 2018.

[4] Heard Mr. K. Roshan, learned counsel for the appellant and Ms. Juliana, learned counsel representing Mr. Kh. Chonjon, learned senior counsel for the respondent.

[5] During the course of argument, Mr. K. Roshan, learned counsel for the appellant/defendant No.1 has raised a new plea that the Mat. (Declaration) Suit No.16 of 2017 is barred by the provisions of Order 23 Rule 1 Sub-Rule 4 of CPC. He has pointed out that prior to the present suit, the appellant/defendant No.1 had filed a Mat. (Declaration) Suit No.92 of 2013 before the Family Court,

Manipur inter-alia praying to declare her as the adopted daughter of (late) Soram Indubala Devi. In the earlier suit filed by the appellant/defendant No.1, the respondent/plaintiff contested the same by filing written statement taking the plea that the appellant/defendant was never adopted, at any stage, by (late) Soram Indubala Devi. Along with the written statement, the respondent/plaintiff also set up a counter claim to declare herself as daughter of (late) Soram Indubala Devi and for declaration of the adoption deed of the appellant/defendant No.1 as void. The prayer of the counter claim filed by the respondent/plaintiff in Mat. (Declaration) Suit No.92 of 2013 is reproduced as below:

- “i) To declare that the respondent is the only natural daughter of late, Soram Indubala Devi;*
- ii) To declare that the respondent has got every properties (movbables and immovables) which was left by her deceased mother Soram Indubala Devi;*
- iii) To declare that the registered Deed of Adoption, dated 14.9.2012 is null and void;*
- iv) Any other relief(s) as the Hon’ble Court may deem fit, just and expedient in law and equity.”*

[5.1] Mr. K. Roshan, learned counsel for the appellant further points out that the appellant/defendant No.1 herein had not pressed the Mat. (Declaration) Suit No.92 of 2013 and the respondent/plaintiff herein also did not press counter claim. Accordingly, vide order dated 02.11.2015, the Ld. Family Court, Manipur disposed of both the suit of the appellant/defendant No.1 and the counter claim of the respondent/plaintiff as not pressed and without any liberty to file fresh one. Relevant portion of the order dated 02.11.2015 in Mat. (Declaration) Suit No.92 of 2013 is reproduced as below:

“Both the parties are present by counsel.

The counsel of the plaintiff not pressed the suit.

On the other hand Ld. Counsel of the defendant is also not pressed the counter claim of the defendant.

In the result the suit of the plaintiff and the counter claim of the defendant are disposed off.

Announced.”

[5.2] Mr. K. Roshan, learned counsel for the appellant submits that the provisions of the Order 23 Rule 1 Sub-Rule 4 CPC stipulate that upon withdrawal from suit/counter claim without permission to file fresh one, the parties shall be precluded from filing a fresh suit in respect of any matter or part of the suit/counter claim already abandoned or withdrawn. He points out that since the counter claim filed by the respondent/plaintiff in the earlier suit filed by the

appellant/defendant No.1 was withdrawn without any liberty to file fresh one, the subsequent suit, i.e., Mat. (Declaration) Suit No.16 of 2017 having the same prayer is barred in view of the statutory mandate of the provisions of Order 23 Rule 1 Sub-Rule 4 (b) CPC.

[5.3] Mr. K. Roshan, learned counsel for the appellant has emphasized that the prayer in the counter claim in Mat. (Declaration) Suit No.92 of 2013 and the prayer in Mat.(Declaration) Suit No.16 of 2017 of the respondent/plaintiff are similar and are in the same subject matter, i.e., for declaring the respondent as the sole daughter of late Soram Indubala Devi and for declaring the adoption deed of the appellant/defendant No.1 herein by (late) Soram Indubala Devi as void. He also relies on the judgment dated 12 November, 1986 in **Sarguja Transport Service vs State Transport Appellate Tribunal, M.P., Gwalior & Others reported as (1987) 1 SCC 5** and **order dated 12.09.2022 passed by the Hon'ble Supreme Court in Civil Appeal No.8247 of 2009 titled Yashoda Vs. Sukhwinder Singh & Others: MANU/SC/1160/2022: AIR 2022 SC 4623** which held that subsequent suit or petition is barred if earlier suit in the same subject was withdrawn without any liberty to file fresh one.

[6] Ms. Juliana, learned counsel for the respondent/plaintiff submits that the new plea of bar of the subsequent suit was not raised before the Ld. Family Court in the application challenging the maintainability i.e., Judl. Misc. Case No.24 of 2019 filed by the appellant/defendant No.1. The application was

confined to jurisdiction of the Family Court under Section 7 of the Family Court Act and the question of limitation. She submits that the new plea cannot be raised before this Court in the appeal during the course of hearing and she prays that the appeal be dismissed with heavy cost.

[7] Heard the learned counsels for the parties and perused the materials on record and cited laws.

[8] It is true that the question of bar of subsequent suit by provisions of the Order 23 Rule 1 CPC was not raised in the application being Judl. Misc. Case No.24 of 2019 filed by the appellant/defendant No.1 before the Ld. Family Court, Manipur. The objection to the maintainability was confined to the jurisdiction of the Family Court under Section 7 of the Family Court Act and the question of limitation. It may be noted that the Hon'ble Supreme Court held in the case of **State of Punjab v. Dr. R N Bhatnagar :1999 (2) SCC 330** that new plea involving pure question of law, in absence of any disputed question of fact, can be raised for the first time in Supreme Court. In the case of **Vimal Chandra Grover Vs. Bank of India reported as 2000 (5) SCC 122**, it was held that new plea can be put if it involves of pure question of law going to the root of the case.

[9] In a recent case of **The State of Karnataka and Ors. vs. B.R. Muralidhar and Ors. (28.07.2022- SC): MANU/SC/0931/2022**, Hon'ble Supreme Court allowed a new plea regarding validity of a provision of statue

taken up for the first time during the argument where there was no such pleading. Considering the new plea, the matter was remanded for fresh consideration including the new plea. Relevant para are reproduced below:

“19. As aforesaid, in addition to the challenge to Section 20 of the 1973 Act being unconstitutional, during the course of argument for the first time and then restated in the written submission, question regarding the applicability of Section 17 of the 1973 Act to the fact situation of the present case has been raised. There is no pleading in the writ petitions in that regard.

20. Be that as it may, the High Court had held that in absence of an express provision regarding lapsing of acquisition in the 1973 Act unlike the 1894 or 2013 Act, it is not open to grant relief of setting aside impugned notification dated 23.6.2005 on account of efflux of time. In that, show cause notice (preliminary notification) is ordinarily issued when the competent authority is satisfied that for the purpose of executing any work of improvement in relation to any "slum area" or any building in such area or for the purpose of re-developing any "slum clearance area", or for the purpose of rehabilitating slum dwellers, it is necessary to acquire any land and it has been so decided in pursuance of the said provision. The need to develop the slum area and to rehabilitate the slum dwellers is a continuing obligation of the State until it is fully discharged. The fact that there is some time gap between the preliminary notice to show cause why the land in question should not be acquired and in issuance of the final notification Under Section 17, by itself, cannot be a ground to declare the process initiated vide valid show cause notice as having lapsed by efflux of time.

20A. It is, however, urged by the writ Petitioners that the stated power to effectuate a purpose has to be exercised in a reasonable time frame. The exercise of power in a reasonable manner inheres the concept of its exercise within a reasonable time. What would be the length of reasonable time must be then determined by the facts of the case in the context of scheme of the Act and the nature of the power which is to be exercised to prevent miscarriage of justice, misuse or abuse of power. Even this plea will have to be examined by the High Court in the first place.

21. After cogitating over the matter and in the fact situation of the present case, we are of the considered opinion that it would be appropriate to

relegate the parties before the High Court for reconsideration of the writ petitions afresh including in relation to the question of constitutional validity of Section 20 of the 1973 Act. In the remanded proceedings, it would then be open to the writ Petitioners to amend the writ petition to raise a new plea regarding inapplicability of Section 17 to the land in question -- which had not been declared as slum area or slum clearance area. That question, if answered in favour of the writ Petitioners, would go to the root of the matter and it may then not be necessary to even examine the question regarding the constitutional validity of Section 20 of the 1973 Act.

22. As a result, to do substantial justice to both the parties, we deem it appropriate to relegate the parties before the learned Single Judge of the High Court for reconsideration of the writ petitions afresh on its own merits and in accordance with law with liberty to both parties to amend the writ petition or file further better affidavit to defend the provisions in question and the action of acquisition, as the case may be. The parties may do so within six weeks from today. The matter after remand to proceed before the learned Single Judge of the High Court in the first week of September 2022 for hearing.

[10] Accordingly, we are of the view that the question of maintainability of the Mat. (Declaration) Suit No.16 of 2017, as per the mandatory provisions of Order 23 Rule 1 CPC, can be considered at this stage also even though it was not raised before the Ld. Family Court, Manipur. The new plea goes to the very root of the matter, i.e., maintainability of the subsequent suit.

[11] In the case of **Sarguja Transport Service v. S.T.A.T., (1987) 1 SCC 5 @ Para 9**, Hon'ble Supreme Court held that withdrawal or abandonment of a petition under Article 226/227 of the Constitution without liberty to file fresh one would bar such a fresh petition on the same subject matter. The principle embodied in Order 23 Rule 1 CPC will be applicable on ground of public policy. Relevant para is reproduced as below. Para 9 is reproduced below:

“9. The point for consideration is whether a petitioner after withdrawing a writ petition filed by him in the High Court under Article 226 of the Constitution of India without the permission to institute a fresh petition can file a fresh writ petition in the High Court under that article. On this point the decision in *Daryao case*¹ is of no assistance. But we are of the view that the principle underlying Rule 1 of Order XXIII of the Code should be extended in the interests of administration of justice to cases of withdrawal of writ petition also, not on the ground of res judicata but on the ground of public policy as explained above. It would also discourage the litigant from indulging in bench-hunting tactics. In any event there is no justifiable reason in such a case to permit a petitioner to invoke the extraordinary jurisdiction of the High Court under Article 226 of the Constitution once again. While the withdrawal of a writ petition filed in a High Court without permission to file a fresh writ petition may not bar other remedies like a suit or a petition under Article 32 of the Constitution of India since such withdrawal does not amount to res judicata, the remedy under Article 226 of the Constitution of India should be deemed to have been abandoned by the petitioner in respect of the cause of action relied on in the writ petition when he withdraws it without such permission. In the instant case the High Court was right in holding that a fresh writ petition was not maintainable before it in respect of the same subject-matter since the earlier writ petition had been withdrawn without permission to file a fresh petition. We, however, make it clear that whatever we have stated in this order may not be considered as being applicable to a writ petition involving the personal liberty of an individual in which the petitioner prays for the issue of a writ in the nature of habeas corpus or seeks to enforce the fundamental right guaranteed under Article 21 of the Constitution since such a case stands on a different footing altogether. We, however leave this question open.”

1. AIR 1961 SC 1457 : (1962) 1 SCR 574

[12] In the case of **KS Bhoopathy Vs. Kokila reported 2000 (5) SCC 458**, Hon'ble Supreme Court held that withdrawal of a suit without permission to file a fresh one from the Court will preclude the person from suing on the same cause of action.

[13] In the case of **Upadhyay & Co. v. State of U.P. : 1999 (1) SCC 81**, Hon'ble Supreme Court held that it is not permissible practice to challenge the same order over action after withdrawing the Special Leave Petition without obtaining permission of the Court for withdrawing it with liberty to move Special Leave Petition subsequently, relying on the principles embodied in the provisions of Order 23 Rule 1 CPC.

[14] From the above cited judgments, the law is clear that once a suit or counter claim has been withdrawn without any liberty to file fresh one, subsequent suit in the same subject matter is barred by the principles embodied in Order 23 Rule(1) Sub-Rules (3)&(4) of the CPC. However, in the present case, both the suit and counter claim were withdrawn without any liberty to file a fresh suit on the same cause.

[15] For clarity provisions of the Order 23 Rule 1 CPC are reproduced below:

“Withdrawal of suit or abandonment of part of claim

ORDER XXIII

WITHDRAWAL AND ADJUSTMENT OF SUITS

1. Withdrawal of suit or abandonment of part of claim.— (1) At any time after the institution of a suit, the plaintiff may as against all or any of the defendants abandon his suit or abandon a part of his claim:

Provided that where the plaintiff is a minor or other person to whom the provisions contained in Rules 1 to 14 of Order XXXII extend, neither the suit nor any part of the claim shall be abandoned without the leave of the Court.

(2) An Application for leave under the proviso to sub-rule (1) shall be accompanied by an affidavit of the next friend and also, if the minor or

such other person is represented by a pleader, by a certificate of the pleader to the effect that the abandonment proposed is, in his opinion, for the benefit of the minor or such other, person.

(3) Where the Court is satisfied,—

(a) that a suit must fail by reason of some formal defect, or

(b) that there are sufficient grounds for allowing the plaintiff to institute a fresh suit for the subject-matter of a suit or part of a claim,

it may, on such terms as it thinks fit, grant the plaintiff permission to withdraw from such suit or such part of the claim with liberty to institute a fresh suit in respect of the subject-matter of such suit or such part of the claim.

(4) Where the plaintiff—

(a) abandons any suit or part of claim under sub-rule (1), or

(b) withdraws from a suit or part of a claim without the permission referred to in sub-rule (3),

he shall be liable for such costs as the Court may award and shall be precluded from instituting any fresh suit in respect of such subject-matter or such part of the claim.

(5) Nothing in this rule shall be deemed to authorise the Court to permit one of several plaintiffs to abandon a suit or part of a claim under sub-rule (1), or to withdraw, under sub-rule (3), any suit or part of a claim, without the consent of the other plaintiffs.”

[16] From bare perusal of the above quoted Rules, it is seen that Rule 1 Sub-Rule 3 of Order 23 CPC provides that the Court may permit the party to withdraw the suit with a liberty to file a similar suit afresh on the same cause. However, Sub-Rule 4 stipulates that if the plaintiff abandons the suit or a part of the claim or withdrawing the suit without any liberty to file fresh one under Sub-Rule 3, he is precluded from instituting a fresh suit in respect of the same subject matter. The same principle is applicable in case of counter claim as mandated by provision of Rule 6-A Sub-Rule 2 CPC.

[17] On perusal of the prayers made by the respondent/plaintiff in counter claim in Mat. (Declaration) Suit. No.92 of 2013 and in the subsequent suit, ie, Mat. (Declaration) Suit No.16 of 2017, it is crystal clear that they are similar and with regard to declaring her has the sole daughter of (late) Soram Indubala Devi and for declaring deed of adoption of the appellant/defendant No.1 as void. Both the suit and the counter claim in Mat. (Declaration) Suit No.92 of 2013 were dismissed as withdrawn as not pressed without any liberty to file fresh one.

[18] In view of the clear provisions of law and the case laws as cited above, we are of the view that the respondent/plaintiff is precluded from filing the subsequent suit being Mat. (Declaration) Suit No.16 of 2017 after withdrawal of the counter claim filed by her in Mat. (Declaration) Suit No.92 of 2013 without any liberty to file fresh one. It may be noted that the pleas of the respondent/plaintiff in the counter claim in Mat. (Declaration) Suit No.92 of 2013 and the subsequent suit, ie, Mat. (Declaration) Suit No.16 of 2017 are similar.

[19] Accordingly, the present Appeal, ie, Mat. Appeal No. 2 of 2019 is allowed in view of the clear mandate of the principles embodied in Order 23 Rule 1 Sub-Rules (3) & (4) CPC. The impugned order dated 04.04.2019 passed by the Ld. Family Court, Manipur in Judl. Misc. Case No.24 of 2019 [Ref: Mat. (Declaration) Suit No.16 of 2017] is set aside as the subsequent suit is barred by the provisions of Order 23 Rule 1 Sub-Rules (3) & (4) of the CPC. Hence, the whole proceeding of Mat. (Declaration) Suit No.16 of 2017 is closed. No cost.

[20] In view of the above observations and findings, Mat. Appeal No.13 of 2018 and MC (Mat. App.) No.13 of 2018 have become infructuous and are disposed of accordingly.

[21] Return the case record along with copy of this order.

JUDGE

JUDGE

-Larson

FR/NFR