

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

RSA NO.12 OF 2017

R.K.Sanajaoba Singh, aged about 44 years, S/o R.K.Chinglensana Singh, resident of Keishamthong Elangbam Leikai, P.O. & P.S. Imphal, Imphal West District, Manipur.

...Appellant

-Versus-

Sorensangbam Enjibala Devi, aged about 52 years, D/o Sorensangbam Bijoy Singh of Singjamei Thongam Leikai, P.O. & P.S. Singjamei, Imphal West District, Manipur.

... Respondent

with

RSA NO.13 OF 2017

R.K.Sanajaoba Singh, aged about 44 years, S/o R.K.Chinglensana Singh, resident of Keishamthong Elangbam Leikai, P.O. & P.S. Imphal, Imphal West District, Manipur.

...Appellant

-Versus-

Sorensangbam Enjibala Devi, aged about 52 years, D/o Sorensangbam Bijoy Singh of Singjamei Thongam Leikai, P.O. & P.S. Singjamei, Imphal West District, Manipur.

... Respondent

and

RSA NO.02 OF 2018

Sorensangbam Enjibala Devi, aged about 53 years, daughter of Sorensangbam Bijoy Singh, resident of Singjamei Thongam Leikai, P.O. & P.S. Singjamei, District- Imphal West, Manipur.

.... Appellant

-Versus-

R.K.Sanajaoba Singh, aged about 44 years, S/o R.K.Chinglensana Singh, resident of Keishamthong Elangbam Leikai, P.O. & P.S. Imphal, Imphal West District, Manipur.

... Respondent

**BEFORE
HON'BLE THE CHIEF JUSTICE MR. SANJAY KUMAR**

For the Appellant in RSA Nos.12 & 13 of 2017 & the Respondent in RSA No.2 of 2018	:: Mr. Th.Tolpishak, Advocate
For the Respondent in RSA Nos.12 & 13 of 2017 & the Appellant in RSA No.2 of 2018	:: Mr. Th.Modhu, Advocate
Date of reserving Judgment	:: 17.01.2023
Date of Judgment & Order	:: 31.01.2023

COMMON JUDGMENT AND ORDER (CAV)

[1] These three second appeals arise out of the common judgment dated 31.05.2017 of the learned District Judge, Imphal West, in First Civil Appeal Nos. 23 and 24 of 2016. Thereby, the learned District Judge reversed the common judgment dated 18.08.2016 of the learned Civil Judge (Senior Division), Imphal West, in Original Suit No.21 of 2011/46/12 and Original Suit No.28 of 2011/44/12/415/13.

[2] Original Suit No.21 of 2011 was filed by Sorensangbam Enjibala Devi against R.K.Sanajaoba Singh seeking a declaration that she was the owner of the suit-land by virtue of the sale deed dated 26.07.2010 (Ex.A3/Ex.B4) executed in her favour by R.K.Sanajaoba Singh, which was registered by the office of the Sub-Registrar, Porompat. In the alternative, if no title had passed to her under the said registered sale deed due to lack of territorial jurisdiction of the Sub-Registrar, Porompat, she sought a declaration that R.K.Sanajaoba Singh had sold the suit-land to her by executing the sale deed on 26.07.2010 and to direct the Sub-Registrar, Wangoi, Imphal West District, to register the sale deed. In consequence, she sought eviction of R.K.Sanajaoba Singh from the suit-land by demolition of the structures standing thereon and for delivery of the suit-land to her. Lastly, she sought a perpetual injunction, restraining R.K.Sanajaoba Singh and

his men from entering into the suit-land, and the costs of the litigation. The suit-land comprised the homestead measuring an area of 0.17 acre covered by C.S.Dag No.536 /877 under Patta No.383/729 of Revenue Village No.68-Naorem Leikai, Imphal West District, of which a portion measuring 0.025 acre had been acquired by the State Government for widening National Highway No.39.

[3] Original Suit No.28 of 2011 was filed by R.K.Sanajaoba Singh against Sorensangbam Enjibala Devi seeking a declaration that the sale deed bearing Document No.1347(V) of 2010 dated 30.07.2010 (Ex.A3/Ex.B4) of the Sub-Registrar, Porompat, Imphal East District, was null, void and *non-est* in the eye of law. Further, he sought a declaration that the illegal mutation of the name of Sorensangbam Enjibala Devi in respect of the suit-land was void and sought a consequential direction to restore his name in respect thereof. He also sought costs. Trite to state, the suit-land in O.S. No.28 of 2011 was the same as the suit-land in O.S. No.21 of 2011. R.K.Sanajaoba Singh also raised a counter-claim in O.S. No 21 of 2011 seeking certain reliefs, which shall be referred to in detail hereinafter.

[4] Evidence was recorded by the Trial Court in O.S. No. 28 of 2011 filed by R.K.Sanajaoba Singh. His witnesses were accordingly titled PWs and his documentary evidence was numbered as 'A' series. Sorensangbam Enjibala Devi's witnesses were titled DWs and her documents were numbered with 'B' series. The Trial Court thereupon dismissed O.S. No. 21 of 2011 filed by Sorensangbam Enjibala Devi and partly decreed O.S. No.28 of 2011 and the counter-claim filed by R.K.Sanajaoba Singh. In appeal, the First Appellate Court partly decreed O.S. No. 21 of 2011 filed by Sorensangbam Enjibala Devi and dismissed O.S. No.28 of 2011 filed by R.K.Sanajaoba Singh. Hence, these second appeals by both parties.

[5] On 10.04.2019, this Court framed the following substantial questions of law for consideration in RSA Nos.12 and 13 of 2017 filed by R.K.Sanajaoba Singh:

- (a) "Whether the defects of Registration of Sale Deed bearing Registration No.1347 (v) of 2010 dated 30.07.2010 of the Sub-Registrar, Porompat, Imphal East District, Manipur, for want of territorial jurisdiction is curable or not?
- (b) Whether the First Appellate Court even after giving his decision that the Registered Sale Deed (Ext.B/4) has no legal validity as of now being registered beyond its jurisdiction. Can he direct improper direction which is not in issue?
- (c) Whether Regd. Sale Deed (Ext.A/3 or Ext.B/4) of the Sub-Registrar, Porompat, Imphal East, Manipur, can be re-registration or not under Section 23-A of the Registration Act?
- (d) Whether the First Appellate Court has power and jurisdiction to interfere Government policy about the Fixation of Minimum Guidance Value of Land, being Government Order No.2/1/SR/2007-Commissioner (Revenue) dated 20.03.2012 for registration?"

On the same day, the substantial question of law arising for consideration in RSA No.2 of 2018, filed by Sorensangbam Enjibala Devi, was framed thus:

"Whether failure to pass order to evict the Respondent from the suit land by the District Judge in the impugned Judgment and decree despite its direction to Sub-Registrar, Wangoi to register that sale deed with its clear finding that the Respondents had execute sale deed transferring the Suit to the Appellant and that the Respondent has been possessing the suit as permissive possessor or the Appellant is sustainable or not."

Though the above steps were taken in these second appeals, a formal order of admission was not passed in any of them but they were directed to be listed for final hearing. The appeals are accordingly admitted and taken up for consideration on the substantial questions of law framed earlier.

[6] Heard Mr. Th.Tolpishak, learned counsel for the appellant in RSA Nos. 12 and 13 of 2017 and the respondent in RSA No.2 of 2018; and Mr. Th.Modhu, learned counsel for the appellant in RSA No.2 of 2018 and the respondent in RSA

Nos.12 and 13 of 2017. Both the learned counsel state that the questions of law already framed are sufficient and there is no necessity to frame any additional questions of law in exercise of power under the *proviso* to Section 100 (5) CPC.

[7] Parties shall hereinafter be referred to by name.

[8] The plaint averments in O.S. No.21 of 2011 were as follows: To meet his urgent need for money, Sanajaoba Singh verbally agreed to sell the suit-land to Enjibala Devi for the sale consideration of 25 lakh with the condition that necessary stamp duty and registration fees etc. would be borne by him. He however stated that if the actual consideration amount was disclosed in the sale deed, the stamp value to be paid by him would be in the range of 1,75,000/- and to avoid the same, he wanted to mention the sale consideration in the document as 1 lakh, by executing two money receipts - one for 24 lakh and another for 1 lakh, so as to save expenses. He further informed her that he would bring the concerned registration officials to the school where Enjibala Devi worked so that she need not go to the registration office. She agreed to all the suggestions made by him and accordingly, the document was prepared and registered on 30.07.2010 at the school, where the officials of the registration office came to do the needful. She further stated that the sale deed was executed after the whole consideration amount of 25 lakh was given by her to Sanajaoba Singh in the presence of witnesses and upon his acknowledgment thereof by executing two money receipts dated 26.07.2010 (Exs.B2 & B3). Pursuant to the registration of the document, her name was mutated in the relevant records. Thereafter, a portion of the land sold, being an extent of 0.025 acre, was acquired by the State of Manipur for widening National Highway No.39. The S.D.C., Lilong Chajing, Imphal West, issued

landowner certificate dated 24.09.2010 in favour of Enjibala Devi and she received the compensation therefor as the owner of the acquired land. It was her case that, though Sanajaoba Singh sold her the suit-land with structures, duly recording formal delivery of possession to her, he verbally requested her to allow him to remain in the suit-land for six months with his family members and that he would vacate the land thereafter. She claimed that she accepted his request on humanitarian grounds and allowed him to remain as a permissive possessor. She stated that, she then received a summons from the Revenue Tribunal, Manipur, and came to know that Sanajaoba Singh had challenged the mutation carried out in her favour by the revenue authorities, by filing Revenue Revision Case No.27 of 2010 (Ex.B16). Upon reading the said revision petition, she came to know for the first time that the registration of the sale deed was done by the Sub-Registrar, Porompat, and not by the Sub-Registrar, Wangoi, within whose jurisdiction the suit-land was situated. The Revenue Tribunal dismissed Revenue Revision Case No.27 of 2010 on 20.12.2010 (Ex.A7/Ex.B7). She made inquiries with the Sub-Registrar, Porompat, about the legality of the sale deed registered by his office and he informed her vide letter dated 03.11.2010 (Ex.B8) that there was nothing wrong and that he had intimated the factum of registration to the Sub-Registrar, Wangoi. She stated that, by way of abundant caution, she presented the sale deed for registration in the office of the Sub-Registrar, Wangoi, but he refused to register the document under letter dated 19.01.2011 (Ex.B6), opining that registering the said document would amount to double registration and unless the earlier registration was cancelled, he could not undertake fresh registration. Aggrieved thereby, Enjibala Devi filed Appeal (Registration) Case No.1 of 2011 before the Registrar, Imphal West District. Enjibala

Devi then stated that, by taking advantage of his being in actual possession of the suit-land, Sanajaoba Singh attempted to construct structures thereon. She got addressed a legal notice to him on 17.03.2011 calling upon him to refrain from raising structures. He, however, undertook construction activity on a war-footing and changed the structures that were in existence at the time the sale deed was executed. Enjibala Devi then filed W.P(C) No.298 of 2011 before the Imphal Bench of the Gauhati High Court in relation to the appeal pending before the Registrar, Imphal West District, and the said writ petition was disposed of on 23.06.2011, directing the Registrar, Imphal West District, to dispose of the appeal within a time frame. Enjibala Devi then adverted to the stand of Sanajaoba Singh that he had only borrowed a sum of 1 lakh from her by mortgaging a portion of the suit-land, *i.e.*, the land excluding the acquired portion, and executed a mortgage deed but he thereafter found out that it was a sale deed transferring the entire suit-land. He further claimed that the said sale deed was registered by the office of the Sub-Registrar, Porompat, who had no territorial jurisdiction. As this stand taken by Sanajaoba Singh put a cloud on her right and title over the suit-land, she prayed for the suit reliefs set out hereinbefore.

[9] Original Suit No.28 of 2011 was filed by Sanajaoba Singh with the following averments: He was the owner of the suit-land but claimed that he got his name recorded only for making it a security for obtaining loans from banks as well as private persons. According to him, his mother was the real owner of the suit-land and she had never formally transferred the same to him. He stated that in July, 2010, he was in need of money and asked Enjibala Devi to lend him 1 lakh with interest thereon at 12% per annum. He claimed that, on 26.07.2010, Enjibala

Devi called him to the Temple of Learning School, Naorem Leikai, Imphal West District, to collect the said amount and when he went there, he found some unknown persons. According to him, these unknown persons prepared a katcha agreement for mortgaging the suit-land and he received a sum of 1 lakh only from Enjibala Devi and went back. He claimed that it was only on 26.09.2010 that he came to know that the agreement prepared on 26.07.2010 was a sale deed, which was prepared fraudulently without his knowledge and consent. He stated that Enjibala Devi got her name mutated in relation to the suit-land under Mutation Order dated 02.08.2010 passed in Mutation Case No.145 of 2010 on the file of the S.D.C., Lilong Chajing. He stated that the fraudulent sale deed was registered by the office of the Sub-Registrar, Porompat, with Document No.1347(V) of 2010, but the suit-land did not lie within the jurisdiction of the Sub-Registrar, Porompat, and was situated in the jurisdiction of the Sub-Registrar, Wangoi. He stated that he filed Revenue Revision Case No.27 of 2010 before the Revenue Tribunal, Manipur, against Mutation Order dated 02.08.2010 but, on technical grounds, it was dismissed on 20.12.2010 (Ex.A7/Ex.B7). Admitting the subsequent sequence of events, as set out by Enjibala Devi in her suit, he stated that the Registrar, Imphal West, disposed of Appeal (Registration) No.1 of 2011 on 04.08.2011 (Ex.A4), observing that he had no jurisdiction to entertain the appeal and directed the parties to approach the competent authority. He further stated that he was ready to repay the borrowed amount of 1 lakh with reasonable interest but Enjibala Devi had received 10,82,806/- towards compensation for the land acquired out of the suit-land and, therefore, the amount to be returned by him had to be adjusted against the same. He further stated that a pucca building had been constructed by

him in the suit-land, wherein he and his family members were dwelling continuously and without disturbance. He accordingly prayed for the reliefs set out *supra*.

By way of his counter-claim in O.S. No. 21 of 2011, Sanajaoba Singh prayed for a declaration that the Receipt dated 26.07.2010 in respect of the sum of 24 lakh (Ex.B3) allegedly executed by him in favour of Enjibala Devi was a forged document and was not binding on him. He also sought a declaration that the drawal of 10,82,806/- by Enjibala Devi was illegal and a declaration that all the documents/ agreement/undertaking in the possession of Enjibala Devi, relatable to the suit-land or transfer of the suit-land, were all false and forged and not binding on him. Lastly, he sought an injunction restraining Enjibala Devi from entering into the suit-land.

[10] To disprove Sanajaoba Singh's claim that he was not the owner of the suit-land, Enjibala Devi got marked the registered gift deed bearing Document No. 3429 dated 03.06.2006 (Ex.B9), whereby his mother had gifted him the suit-land.

[11] Common issues were framed on 22.02.2013 in the suits and the counter-claim. The issues framed read as follows: -

- "1. Whether the plaintiff had executed a deed of sale transferring the suit land with all the structures standing thereon to plaintiff, if so, whether the consideration amount was 25,00,000/- (Rupees twenty-five lacs) only?
2. Whether the plaintiff had mortgaged the suit land to the plaintiff for taking loan of 1,00,000/- (Rupees one lac) only, if so, whether the plaintiff had obtained the signatures of the defendant in the deed of sale fraudulently?
3. Whether the plaintiff has been possessing the suit land as permissive possession or not?
4. Whether the deed dated 26.7.2010 registered in the Sub-Registrar, Porompat has its validity or not?
5. Is there any cause of action?
6. Whether the plaintiff is entitled to the reliefs claimed?

(The plaintiff mentioned in the issues is R.K.Sanajaoba Singh and whereas the defendant is Sorensangbam Enjibala Devi.)”

[12] Sanajaoba Singh examined himself as PW-1 and his two maternal uncles as PW-2 and PW-3. He marked 5 documents in evidence. Enjibala Devi examined herself as DW-1. Her younger brother was examined as DW-2. He was one of the attestors of the Sale Deed dated 26.07.2010 (Ex.A3/Ex.B4). She also got examined an Advocate, who was one of the attestors of the money receipts for 1 lakh and 24 lakh (Exs.B2 & B3), as DW-3. This witness stated that Sanajaoba Singh put his signatures in the sale deed in his presence but he was not the attestor thereof. DW-4 was the deed-cum-petition writer attached to the office of the Sub-Registrar, Porompat, Imphal East, and he stated that he had drafted ExA3/Ex.B4 Sale Deed. Enjibala Devi got marked in evidence 15 documents.

[13] Upon considering the rival pleadings and the evidence on record, the learned Civil Judge (Senior Division), Imphal West, held that Enjibala Devi failed to prove the execution of the sale deed and transfer of the suit-land to her, with structures standing thereon, for a consideration of 25 lakh. Further, the learned Civil Judge held that Sanajaoba Singh had failed to prove that he had mortgaged the suit-land to Enjibala Devi for taking a loan of 1 lakh and that she had obtained his signatures in the sale deed fraudulently. Issue Nos. 1 and 2 were answered accordingly. As regards Issue No.3, the learned Civil Judge noted that, as Enjibala Devi had failed to prove execution of the sale deed, her prayer for eviction of Sanajaoba Singh from the suit-land could not be acted upon, by treating him as a permissive possessor. Issue No.3 was therefore answered against her. Lastly, the learned Civil Judge held that the Sale Deed dated 26.07.2010 (Ex.A3/Ex.B4) was

not admissible in evidence and had no evidentiary value as it was bad in law. In this regard, reference was made by the learned Civil Judge to Section 87 of the Registration Act, 1908, which dealt with defects of procedure and provided that a defect in respect of jurisdiction, as opposed to one of procedure, is not curable. Issue No.4 was answered accordingly. The learned Civil Judge went on to note that as Issue Nos.1, 3 and 4 had been decided against Enjibala Devi and as Issue No.2 was answered against Sanajaoba Singh, there was no cause of action for the suits filed by both of them, including the counter-claim, except for holding in favour of Sanajaoba Singh that the Sale Deed (Ex.A3/Ex.B4) was not admissible in evidence and had no value, as it was bad in law. The learned Civil Judge went on to state that the suit filed by Enjibala Devi was bad for non-joinder of necessary parties as the State of Manipur and the Registration authorities were not impleaded though a direction had been sought by her to the Sub-Registrar, Wangoi, to register the document. Accordingly, by his common judgment dated 18.08.2016, the learned Civil Judge dismissed the suit filed by Enjibala Devi and partly decreed the suit and counter-claim filed by Sanajaoba Singh.

[14] Aggrieved by the dismissal of her suit and the part-decretal of the suit filed by Sanajaoba Singh, Enjibala Devi filed First Civil Appeal Nos.23 and 24 of 2016 before the learned District Judge, Imphal West. First Civil Appeal No.23 of 2016 related to O.S. No.21 of 2011 filed by her, while First Civil Appeal No.24 of 2016 pertained to O.S. No.28 of 2011 filed by Sanajaoba Singh.

[15] The learned District Judge, Imphal West, did not frame separate points for determination in the appeals but considered the issues already framed by the learned Civil Judge (Senior Division), Imphal West. Thereupon, by his reversing

common judgment dated 31.05.2017, the learned District Judge granted relief to Enjibala Devi. The learned District Judge found, on facts, that Enjibala Devi had proved the execution of the sale deed in her favour by Sanajaoba Singh on 26.07.2010 and that the two money receipts for 1 lakh and 24 lakh (Ex.B2 & Ex.B3) were also executed by Sanajaoba Singh. However, the learned District Judge held that Enjibala Devi could not claim the sale consideration to be 25 lakh, contrary to the statement made in the sale deed that the sale consideration was 1 lakh, in the light of Section 92 of the Evidence Act, 1872. The learned District Judge held that Sanajaoba Singh had failed to establish that the Sale Deed (Ex.A3/Ex.B.4) was an intended mortgage deed for borrowing a sum of 1 lakh and, on the other hand, Enjibala Devi had proved that she purchased the suit-land from him at 1 lakh but failed to prove that the sale consideration therefor was 25 lakh.

[16] The learned District Judge noted that the learned Civil Judge (Senior Division), Imphal West, had wrongly discussed the legality of the Sale Deed (Ex.A3/Ex.B4) while deciding Issue Nos.1 and 2, as a separate issue, viz., Issue No.4, had been framed with regard to the validity of Ex.A3/Ex.B4 Sale Deed. Further, the learned District Judge found that there was a recital in the said sale deed that Sanajaoba Singh delivered possession of the suit-land to Enjibala Devi, the vendee, and that Enjibala Devi, in her deposition, had stated that Sanajaoba Singh requested her to allow him and his family members to remain in the suit-land for six months and that she had permitted the same on humanitarian grounds. As the statement made by her was not subjected to effective cross-examination, the learned District Judge held that Sanajaoba Singh was in permissive possession of the suit-land.

[17] As regards the validity of Ex.A3/Ex.B4 Sale Deed, arising for consideration under Issue No.4, the learned District Judge noted that the suit-land was situated in Imphal West District under the territorial jurisdiction of the Sub-Registrar, Wangoi, and as per Section 28 of the Registration Act, 1908, the sale deed ought not to have been registered by the office of the Sub-Registrar, Porompat, Imphal East District. The learned District Judge noted that, as per Enjibala Devi, the registration of the sale deed by the Sub-Registrar, Porompat, was at the instance of Sanajaoba Singh himself and, therefore, he could not claim the benefit of his own wrong.

[18] The learned District Judge took note of the sequence of events culled out from the pleadings and evidence and observed that in the light of the law laid down by the Supreme Court in **Maria Margarida Sequeira Fernandes and others vs. Erasmo Jack de Sequeria (Dead) through LRs [(2012) 5 SCC 370]**, truth is the foundation of justice and the endeavor of Judges should be to ascertain the truth and leave no stone unturned in achieving this objective. The learned District Judge noted that execution of Ex.A3/Ex.B4 Sale Deed was duly proved by Enjibala Devi and the claim of Sanajaoba Singh that the said document was intended to be a mortgage deed was not proved by him, but despite execution of the sale deed, it proved to have no legal validity for want of the territorial jurisdiction of the registering authority. The learned District Judge, therefore, opined that the Sub-Registrar, Wangoi, Imphal West District, would have ample jurisdiction to consider 're-registration' of the sale deed by borrowing the ratio laid down under Section 23 A of the Registration Act, 1908, and other provisions thereof. The learned District Judge accordingly allowed the appeals filed by Enjibala Devi in part and set

aside the common judgment dated 18.08.2016 passed by the learned Civil Judge (Senior Division), Imphal West. The suit filed by Sanajaoba Singh was dismissed and the suit filed by Enjibala Devi was partly decreed, directing the Sub-Registrar, Wangoi, to re-consider the registration of the Sale Deed dated 26.07.2010 as per the provisions of the Registration Act, 1908, on the basis of the letter of the Sub-Registrar, Porompat, and on the application of Enjibala Devi.

[19] At the outset, it may be noted that the finding of the learned Civil Judge (Senior Division), Imphal West, that Enjibala Devi's suit was bad for non-joinder of the State of Manipur and its registering authority, as they were proper and necessary parties, cannot be countenanced. It is not as if the State of Manipur and its registering authorities have any role to play in the litigation, as the dispute was purely between Enjibala Devi and Sanajaoba Singh. It is only implementation of the decree of the Court, if any, which would bring in the registering authorities of the State of Manipur. In such a situation, it was not required that they should be made parties to the suit filed by Enjibala Devi. They were neither proper nor necessary parties thereto and their non-joinder had no consequence whatsoever. Be it noted that in a suit for specific performance also, the registering authority would not be made a party but the direction given under the provisions of the Specific Relief Act, 1963, would require the jurisdictional registering authority to register the document if the suit for specific performance is decreed.

[20] Further, Mr. Th.Tolpishak, learned counsel, appearing for Sanajaoba Singh, would contend that Enjibala Devi's suit seeking a direction to the Sub-Registrar, Wangoi, to register the document would be barred by Section 77 of the Registration Act, 1908. He would point out that such a suit had to be filed within

thirty days from the date of refusal of registration but, in the case on hand, the suit was filed by Enjibala Devi beyond that time. This argument, however, lacks substance. It is an admitted fact that upon refusal by the Sub-Registrar, Wangoi, under his letter dated 19.01.2011, to register the sale deed on the ground that it would amount to re-registration, an appeal was preferred by Enjibala Devi before the District Registrar, Imphal West, and the same was rejected only on 04.08.2011, i.e., after institution of O.S. No.21 of 2011 by Enjibala Devi on 28.07.2011. There was, thus, no delay on her part in terms of Section 77 of the Registration Act, 1908.

[21] On merits, Mr. Th.Tolpishak, learned counsel, would contend that the defect in the registration of the Sale Deed dated 26.07.2010 (Ex.A3/Ex.B4) was fatal and incurable and, therefore, the learned District Judge, Imphal West, erred in directing its 're-registration' by the Sub-Registrar, Wangoi. He would assert that Section 23 A of the Registration Act, 1908, had no application to the fact-situation and, therefore, the analogy drawn by the learned District Judge, Imphal West, is unsustainable. He would further contend that the direction of the learned District Judge, Imphal West, to 're-register' the document would run contrary to the policy of the Government of Manipur with regard to fixation of minimum land values, as per the Government Order dated 20.03.2012.

[22] *Per contra*, Mr. Th.Modhu, learned counsel, appearing for Enjibala Devi, would argue that the learned District Judge, Imphal West, had directed registration of the sale deed afresh as the earlier registration had no validity in the eye of law and, therefore, the word 're-registration' is a misnomer and had no application. He would point out that, in terms of the suit prayer of Enjibala Devi in O.S. No.21 of 2011, if the Court found that no title had passed to her under the registered Sale

Deed dated 26.07.2010 (Ex.A3/Ex.B4) owing to lack of territorial jurisdiction of the Sub-Registrar, Porompat, she sought a declaration that Sanajaoba Singh had sold the land to her by executing the said sale deed and to direct the Sub-Registrar, Wangoi, Imphal West, to register the said document. He would, therefore, assert that this prayer practically amounted to seeking specific performance by Sanajaoba Singh, in the event the earlier registered document executed by him conveying title to her was found to be lacking validity in the eye of law owing to the lack of territorial jurisdiction of the registering authority.

[23] At this stage, it may be noted that the Trial Court as well as the First Appellate Court held that Sanajaoba Singh had failed to prove that the document executed by him on 26.07.2010 was intended to be a mortgage deed. On the other hand, all the witnesses examined by Enjibala Devi, who were present at the time of its registration, clearly spoke in support of her claim that the document that was registered on that day was a sale deed. Thus, execution of the sale deed not being in doubt and as this Court would not review that factual finding under Section 100 CPC, the main issue that falls for consideration in second appellate jurisdiction is as to what follows from the finding of both the Courts below that the registered sale deed had no validity in the eye of law, for want of territorial jurisdiction of the registering authority, *viz.*, the Sub-Registrar, Porompat, Imphal East.

[24] In this regard, the learned Civil Judge (Senior Division), Imphal West, altogether lost sight of the suit prayer of Enjibala Devi, referred to *supra*, which was practically on the lines of seeking specific performance, if Ex.A3/Ex.B4 Sale Deed was found defective and if no title had passed to her thereunder owing to lack of territorial jurisdiction of the Sub-Registrar, Porompat. This prayer was taken note

of by the learned District Judge, Imphal West, in first appellate jurisdiction and, in consequence, the relief was moulded by directing registration of the said sale deed afresh by the Sub-Registrar, Wangoi, who was the proper registering authority in terms of territorial jurisdiction, under Section 28 of the Registration Act, 1908.

[25] Be it noted that Section 28 of the Registration Act, 1908, puts it beyond the pale of doubt that it is only the registering authority who has jurisdiction over the area, wherein the land which is the subject matter of the document is situated, who would have proper authority to register such a document. It may also be noted that Rule 64 of the Manipur Registration Rules, 1959, provides that if a document has not been presented to the proper office, it should be returned to the presenter. Therefore, the Sub-Registrar, Porompat, ought not to have entertained the subject sale deed and registered it, without first examining whether he had the territorial jurisdiction, under Section 28 of the Registration Act, 1908, to deal with it. Reference in this regard may be made to **Dottie Karan and others vs. Lachmi Prasad Sinha and others [AIR 1931 PC 52]**, wherein the Privy Council pointed out that Section 87 of the Registration Act, 1908, dealt with the defects of procedure but if the defect is one of jurisdiction, as opposed to one of procedure, then it would not be curable. Following this edict in **Seth Suganmal and others vs. Mt. Umraobi w/o. Abdul Hannan and others [AIR 1938 Nagpur 550]**, the Nagpur High Court observed that registration, to be effective, must be in accordance with the provisions of the Registration Act, 1908, and if the defect is not curable as a defect of procedure under Section 87 thereof, then the document cannot be used for any purpose specified in Section 49. In **Prasad and others vs. V.Govindaswami Mudaliar and others (AIR 1982 SC 84)**, the Supreme Court

found, on facts, that a sale deed had been executed only nominally and for a collateral purpose, with a view to stave off creditors and with the express understanding that the property sold would be reconveyed to the vendors after the pressure of the creditors subsided. In this situation, the Supreme Court held that there was no question of giving any equities to the vendee even if some of the amounts paid to the creditors were genuine. As the transaction of sale was vitiated, *per* the Supreme Court, no relief in equity could be granted to the vendees. This decision has no relevance presently, as this Court is in agreement with the findings of the First Appellate Court, the last Court on facts, that the Sale Deed dated 26.07.2010 (Ex.A3/Ex.B4) was executed by Sanajaoba Singh in the circumstances claimed by Enjibala Devi, duly supported by the testimonies of witnesses, and the said transaction, by itself, did not stand vitiated in law. Similarly, the decision in **Chironjilal vs. Bhura and others, [AIR 1981 NOC 94 (Madhya Pradesh)]**, relied upon by Mr. Th.Tolpishak is of no avail to him, as that was also a case where the finding of the Court was that the parties did not intend the document to be operative as a sale deed, unlike the case on hand.

[26] Section 23A of the Registration Act, 1908, on the other hand, refers to a document which is registered correctly by the authorized territorial registering authority, who thereafter finds that the person who presented the document for registration lacked the authorization to do so. In such an event, re-registration of the document at the behest of the proper presenter is permitted under this provision. As rightly contended by Mr. Th.Tolpishak, learned counsel, Section 23A would have no application to a defective registration falling foul of Section 28 of the Registration Act, 1908, and such a defect cannot be cured.

[27] It is no doubt true that the learned District Judge, Imphal West, used the word 're-registration' in his judgment, but as pointed out by Mr. Th.Modhu, learned counsel, once the finding of both the Courts was that the very registration of the document by the Sub-Registrar, Porompat, had no validity in the eye of law, the question of 're-registering' the document would not arise. Merely because the said document was erroneously registered by a registering authority who had no jurisdiction to do so, it cannot logically mean that the transaction under the said document, even if proved, would have to be nullified. In such a situation, it would be for the proper registering authority to make an endorsement on the said document that registration is being carried out afresh in such circumstances. Such a registration would not amount to 're-registration' in the eye of law or in terms of Section 23A of the Registration Act, 1908.

[28] Mr. Th.Tolpishak, learned counsel, would further contend that the direction of the learned District Judge, Imphal West, to the Sub-Registrar, Wangoi, to straightway register the Sale Deed (Ex.A3/Ex.B4) dated 26.07.2010 would run contrary to the Government's policy, which was put in place in the year 2012, with regard to valuation of lands for the purpose of stamp duty. A copy of the Order dated 20.03.2012 issued by the Revenue Department, Government of Manipur, is placed on record. Thereby, the Commissioner (Revenue), Government of Manipur, took note of the substantial increase of values and utility of lands in urban and rural areas in the State and thought it appropriate to determine and fix minimum values for different categories of land in Manipur, and particularly, in the urban areas and District Headquarters of the State, with a view to prevent the practice of under-valuation of land in land transactions and directed that, after enforcement of the

said order, the valuation of lands in land transaction should be either at a higher rate than or at a rate not less than the prescribed minimum guidance value for the specified category/utilization of land. This order came into force from 01.04.2012. In effect, it had no application at the time of execution of Ex.A3/Ex.B4 Sale Deed on 26.07.2010 and at that point of time, admittedly, it was within the discretion of the executants of the document to fix the valuation of the land that was the subject matter of the document for the purpose of determining the stamp duty payable thereon. Reference may be made to the law laid down by the Imphal Bench of the Gauhati High Court in **Smt.Sagolsem Ongbi Jamini Devi vs. The State of Manipur & others [W.P(C) No.823 of 2001 decided on 16.08.2001]**, wherein it was observed that a document for sale of land under the Transfer of Property Act would be executed upon payment of consideration as the price of the land and the amount of the sale consideration is fixed by the parties. The Court observed that in the absence of any law to the contrary, the amount fixed by the parties as the price of the land could not be interfered with. It is in this context that a finding was rendered by the learned District Judge, Imphal West, that Enjibala Devi could not claim the sale consideration under Ex.A3/Ex.B4 Sale Deed dated 26.07.2010 to be 25 lakh, contrary to the recital therein that the sale consideration was only 1 lakh. As rightly noted by the learned District Judge, Imphal West, Section 92 of the Evidence Act, 1872, normally bars a party claiming under a document to put up a stand contrary to the written contents of such document. Therefore, the recital of a lesser sale consideration in the year 2010 did not affect the validity of the document and it was only the registration thereof by a registering authority, who lacked territorial jurisdiction, that proved to be its undoing.

[29] On facts, it may be noted that Sanajaoba Singh's conduct throughout clearly reflected his lack of *bonafides*. His claim, at the outset, was that he was not even the owner of the suit-land. This was disproved by Enjibala Devi by placing on record the registered gift deed dated 03.06.2006 (Ex.B9), whereby Sanajaoba Singh's mother transferred the suit-land to him by way of a gift. His next claim was that the subject document was intended to be a mortgage deed for 1 lakh. This was also disproved by the testimonies of various witnesses who spoke on behalf of Enjibala Devi. Further, though he claimed that he came to know that the subject document was a sale deed in September, 2010 itself, i.e., around the date when an ownership certificate was issued to Enjibala Devi to enable her to obtain the compensation for the acquired land, Sanajaoba Singh did nothing to stop the same. This clearly shows that he had no issue then and only thereafter, he developed an afterthought to attack this transaction. It has also been brought on record that the registration of the Sale Deed by an incompetent registering authority was also attributable to Sanajaoba Singh himself. DW-3, an independent witness, being an Advocate by profession and a friend of Enjibala Devi's younger brother (DW-2), stated that Sanajaoba Singh came to the school on that fateful day along with the deed-writer and upon his instruction, the deed-writer produced the already drafted sale deed in respect of the suit-land and read out the contents thereof in the presence of all. Further, the deed-writer himself was examined as DW-4 and being a completely independent witness, he supported Enjibala Devi to the hilt. In his cross-examination, he categorically stated that the sale deed was scribed by him and after its drafting was completed, Sanajaoba Singh took him to the school complex where the vendee, Enjibala Devi, was present. He further stated that he

did not know whether the sale deed had been registered or not, but after being shown the document, he stated that he found that it was a registered one. He went on to state that the '(V)' on top of the original sale deed meant 'Visit', meaning to say that the registering authority himself 'visited' the place where the registration took place. Reference may also be made to the letter dated 03.11.2010 (Ex.B8) written by the Sub-Registrar, Porompat, to the Sub-Registrar, Wangoi, informing him that he had registered the subject document. Sanajaoba Singh did not even contest the claim of Enjibala Devi that it was he himself who had arranged for the registration of the document by the Sub-Registrar, Porompat, at the school where Enjibala Devi worked. In the light of this, Sanajaoba Singh cannot be permitted to take advantage of his own mistake in bringing the wrong registering authority and seek to merrily wash his hands off the proved transaction.

[30] As pointed out by the Supreme Court in **Maria Margarida Sequeria Fernandes** (*supra*), truth alone should be the foundation of justice as the entire judicial system was created only to discern and find out the real truth and the mandate, obligation and bounden duty of Judges at all levels would be to seriously engage themselves in the journey of discovering the truth. The Supreme Court went to the extent of stating that Judges should leave no stone unturned in achieving this objective. On similar lines, in **Mohanlal Shamji Soni vs. Union of India and another** [1991 Supp. (1) SCC 271], the Supreme Court cautioned that Courts must discharge their statutory functions, according to law, in dispensing justice as it is the duty of the Court not only to do justice but also to ensure that justice is done. Again, in **Prithipal Singh and others vs. State of Punjab and another** [(2012) 1 SCC 10], the Supreme Court observed that extraordinary

situations would demand extraordinary remedies and the Court would have to innovate law and pass unconventional orders while dealing with unprecedented cases, keeping in view that extraordinary fact-situations require extraordinary measures. In **Kusheshwar Prasad Singh vs. State of Bihar and others [(2007) 11 SCC 447]**, the Supreme Court observed that it is a settled principle of law that a man cannot be permitted to take undue and unfair advantage of his own wrong to gain a favourable interpretation of law and that a wrong doer ought not to be permitted to make a profit out of his own wrong.

[31] Therefore, on the above analysis, this Court finds that the direction of the learned District Judge, Imphal West, to the Sub-Registrar, Wangoi, must be read as a direction to register the Sale Deed dated 26.07.2010 afresh and not as a direction to 're-register' it under the provisions of the Registration Act, 1908. As the earlier registration of the said document by the Sub-Registrar, Porompat, had no validity in the eye of law and was *non est*, it would be open to the Sub-Registrar, Wangoi, to effect the registration afresh of the said document either by pasting sheets of blank paper on the back of each page of the said document or by separately attaching blank sheets for the purpose of effecting registration thereof. As this registration has to take place at the present point of time, the Government policy embodied in the Order dated 20.03.2012 of the Revenue Department, Government of Manipur, would have application. The stamp duty and the registration fees payable for the registration of the document have to be computed in accordance with the said order or any amendment thereof obtaining as on date. The same shall be payable and shall be borne by Enjibala Devi, in terms of the normal procedure, as there is no recital in Ex.A3/Ex.B4 Sale Deed to the effect that

the registration fees and stamp duty for the registration thereof were to be borne by Sanajaoba Singh.

[32] As regards RSA No.2 of 2018, the only complaint of Enjibala Devi, the appellant therein, is that the learned District Judge, Imphal West, failed to note her suit prayer for eviction of Sanajaoba Singh from the suit-land by removing the structures thereon and to deliver her vacant possession. It appears that, having granted relief in relation to registration of the sale deed, the learned District Judge overlooked the consequential prayer of Enjibala Devi with regard to delivery of possession of the suit-land to her. As the learned District Judge rendered a finding to the effect that Sanajaoba Singh was in permissive possession of the suit-land in the light of the clear recital in Clause (4) of the Sale Deed dated 26.07.2010 (Ex.A3/Ex.B4) that he had delivered possession of the land sold to the vendee, Enjibala Devi would be entitled to this consequential relief in addition to registration of the document afresh.

[33] In the result, substantial question of law No. 1 framed in RSA Nos. 12 and 13 of 2017 is answered to the effect that the defect in the Sale Deed bearing Document No.1347(V) of 2010 registered on 30.07.2010 is incurable; substantial question of law No. 2 in RSA Nos. 12 and 13 of 2017 is answered to the effect that the direction of the learned District Judge, Imphal West, with regard to registration of the sale deed was not improper; substantial question of law No. 3 in RSA Nos. 12 and 13 of 2017 is answered to the effect that registration of the Sale Deed (Ex.A3/Ex.B4) is to be done afresh and not as a 're-registration'; and substantial question No. 4 in RSA Nos. 12 and 13 of 2017 is answered to the effect that the registration afresh of the sale deed would have to be in conformity with the

Government's policy embodied in the Order dated 20.03.2012 of the Revenue Department, Government of Manipur. The substantial question of law framed in RSA No. 2 of 2018 is answered to the effect that the learned District Judge, Imphal West, erred in failing to grant consequential relief based on the findings recorded.

[34] Regular Second Appeal Nos. 12 and 13 of 2013 filed by R.K.Sanajaoba Singh are accordingly dismissed and Regular Second Appeal No.2 of 2018 filed by Sorensangbam Enjibala Devi is allowed. In consequence, there shall be a direction to the Sub-Registrar, Wangoi, to effect fresh registration of the Sale Deed dated 26.07.2010 by collecting registration fees and stamp duty thereon from Sorensangbam Enjibala Devi, in terms of the Order dated 20.03.2012 of the Revenue Department, Government of Manipur, as amended till date. Sorensangbam Enjibala Devi shall produce the said document for registration within three weeks from the date of this judgment and decree after completing all formalities and R.K.Sanajaoba Singh shall present himself before the Sub-Registrar, Wangoi, when called upon to do so for the purpose of registering the document. Further, R.K.Sanajaoba Singh shall vacate the suit-land by demolishing the structures standing thereon and peaceful & vacant possession of the suit-land shall be delivered by him to Sorensangbam Enjibala Devi within four weeks from the date of this judgment and decree.

In the circumstances of the case, parties shall bear their own costs.

CHIEF JUSTICE

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