

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

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

CRP No. 10 of 2023

Date of Order: 26.07.2023

State of Meghalaya                      Vs.                      Shri. Albert Steven Diengdoh & 11 Ors.

**Coram:**

**Hon'ble Mr. Justice W. Diengdoh, Judge**

**Appearance:**

For the Petitioner/Appellant(s) : Mr. S.Sahay, GA. With  
Mr. J.N. Rynjah, GA  
Ms. A. Thungwa, GA

For the Respondent(s) : Mr. N. Khera, Adv. (R 1)  
Mr. P. Nongbri, Adv. (R 2)  
Ms. A.P. Kharsahnoh, Adv. (R 3)  
Mr. A.H. Kharwanlang, Addl. Sr. GA (R 4-8 & 10)  
Dr. N. Mozika, DSGI with  
Ms. A. Pradhan, Adv. (R 11 & 12)  
None for R 9

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

**J U D G M E N T**

1. This is an application under section 115 read with section 151 of the Code of Civil Procedure, 1908 preferred by the Petitioner/State of Meghalaya in the Department of Mining and Geology, Shillong directed against an order dated

12.06.2023 passed by the Assistant Deputy Commissioner (Judicial) (Sic Assistant to the Deputy Commissioner), South West Khasi Hills District, Mawkyrwat, whereby leave under section 80 (2) CPC was granted to the respondent No. 1/Plaintiff to institute a Title Suit against the Government without serving any Notice upon it as required by sub-section 1 of section 80 CPC.

2. Heard Mr. S. Sahay, learned GA who has, at the outset led this Court to the provision of sub-section 2 of section 80 CPC and has submitted that the requirement of the provision is that the court must assess from the plaint that there are adequate grounds to disclose an urgency that if a notice of sixty days is issued to the Government, then the subject matter of the suit may become infructuous or that there may occur grave and irreparable harm to the plaintiff. However, if the court is satisfied, after hearing the parties that no urgent or immediate relief need to be granted in the suit, the plaint is returned to the plaintiff to present the same after complying with the provision of sub-section (1), which is to wait for the completion of sixty days before filing the suit.

3. In the plaint, the prayer at (vi) therein would indicate that the plaintiff/respondent No. 1 has sought for a permanent injunction against the Government authorities restraining it from processing any application filed by the private defendant/respondent No. 2 herein for mining lease over the suit land.

4. Going into the background of the case between the parties, the learned GA has submitted that the respondent No.1/plaintiff is purportedly the lease holder of the land of about 3 kilometers of the Hahshah Clan having executed a Lease Deed dated 19.08.2014. The respondent No. 2 is also a lease holder of land measuring about 1 km, which land also belongs to the Hahshah clan by virtue of lease agreement dated 16.06.2020.

5. That the respondent No. 1, in the year 2021 had applied for Non-Forest Land Certificate for the purpose of mining activities within his said lease land. However, the competent authority, that is, the Divisional Forest Officer, West and South West Khasi Hills District, vide letter dated 21.09.2022 rejected the said application, apparently on the ground that a portion of the land vide the lease deed dated 16.06.2020 overlapped with the land of the respondent No. 1 as a result of which no steps could be taken by the DFO for processing of the said application for forest clearance until the dispute is resolved.

6. The respondent No. 1 in response to this, has preferred a writ petition before this Court which was disposed of as non-maintainable vide order dated 18.05.2023. However, this Court has cause status quo to be maintained by the parties for a period of three weeks to enable the respondent No. 1/petitioner to file an appropriate application before the competent civil court.

7. The respondent No. 1 as plaintiff then filed a Title Suit before the court of the Assistant to the Deputy Commissioner, South-West Khasi Hills, Mawkyrwat. Along with the said suit, an application under section 80 (2) of the Code of Civil Procedure (CPC) was filed by the respondent No. 1/ plaintiff/Applicant seeking leave of the court to waive the process of service of notice upon the Government/Defendant/Opposite Party. Another application under Order 39 Rule 1 and 2 CPC was also filed seeking stay of the process of applications by the respective departments. All the above was filed on 29.05.2023.

8. The petitioner then filed a show cause against the interim applications on 07.06.2023 and the court heard all the parties at length. Thereafter, the impugned order dated 12.06.2023 was passed whereby the prayer for waiver of the sixty days' period of notice as required under section 80 (1) CPC was allowed. Hence this revision petition.

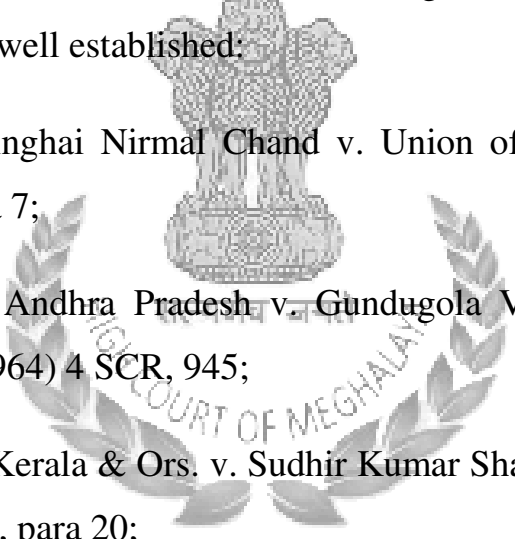
9. According to the learned GA, the prayer of the respondent No.1/plaintiff is for a permanent injunction against the Government authorities to process mining applications of the respondent No. 2 herein, the same however, would be realized only after the trial has commenced, evidence is led and the trial court upon hearing the parties, have issued a decree or disallowed the prayer so made, therefore at this juncture to grant permanent injunction, or even an interim injunction would not be proper, particularly considering the fact that the process so embarked upon by the Government are reversible processes inasmuch as if at the end of the trial the respondent No. 2/private defendant is found to be not eligible for such permission, the same will be invalidated immediately. There being no scope of any apparent urgency in the case which warrants waiver of issuance of notice upon the Government defendant, the impugned order ought not to be passed.

10. The learned GA maintains that the impugned order passed was a cryptic and non-speaking one, which although it ran into 13 pages, the major part of it consists of recording of submissions of the parties and reproduction of the provision of section 80 CPC as well as contents of the lease deed of 2014 and 2020 respectively and certain letters placed by the respondent No. 1/plaintiff and only some portions of page 12 and 13 reflects the opinion of the court and the operative portion of the order. The said observations were made without any trial or even the written statement filed and as such the impugned order was passed without regard to the impact of the relevant provision of law and is therefore illegal and with material irregularity.

11. It is also the submission of the learned GA that as to the urgency to file the suit, the plaintiff/respondent No. 1 has not specifically pleaded this aspect of the matter wherein it was necessary to indicate that if the suit is not allowed to be filed within the said sixty days, the same would become infructuous.

Therefore without disclosure of urgency, notice under section 80 (1) is bound to be issued.

12. Reiterating the contention that the learned Trial Court by passing the impugned order has not considered the legal parameters for grant of waiver of issuance of notice with leave of the court as provided under section 80 (2) CPC, the learned GA has referred to the following decisions of the Hon'ble Supreme Court to say that before filing of a suit, particularly one against the Government, Notice under section 80 CPC is mandatory and non-issuance of the same would render the suit barred by law. Further, waiver of notice under section 80 (2) cannot be granted as a matter of course but is to be granted only after assessment of 'Urgency' has been well established:

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- i. Sawai Singhai Nirmal Chand v. Union of India: (1966) 1 SCR 986, para 7;
  - ii. State of Andhra Pradesh v. Gundugola Venkata Suryanarayana Garu: (1964) 4 SCR, 945;
  - iii. State of Kerala & Ors. v. Sudhir Kumar Sharma & Ors.: (2013) 10 SCC 178, para 20;
  - iv. Prem Lala Nahata & Anr. v. Chandi Prasad Sikaria: (2007) 2 SCC, 551, para 16;
  - v. B.R. Sinha v. State of M.P.: AIR 1969 SC 1256 and
  - vi. State of A.P. & Ors. v. Pioneer Builders, A.P.: (2006) 12 SCC 119, para 15-18.

13. Per contra, Mr. N. Khara, learned counsel for the respondent No. 1 has submitted that the respondent No. 1 throughout the process of seeking to be

accorded the necessary permission for commencement of mining activities in the land leased out to him by the Hahshah clan, on coming to know of the fact that there was an overlap as regard the boundaries of his lease land and the lease land of the respondent No. 2/Teilang Pde, has, at the outset, intimated the Divisional Forest Officer to put on hold any applications for forest clearance, including any applications, if so made by Shri Teilang Pde.

14. On receipt of a communication from the DFO with an advice that he move a competent authority to resolve the apparent dispute as regard the overlapped land, the respondent No. 1 has assumed that the Government would look into his grievance. Even when the Sub-Registrar was approached in the matter, he was informed that the same is being examined and it would take some time before any reply could be given.

15. However, to the surprise of the respondent No. 1, he came across a letter dated 25.04.2023, which came out in public circulation and which letter speaks of the approval of the Central Government for grant of mining lease, amongst others, to respondent No. 2/Shri Teilang Pde, apparently concerning the lease land where the overlap has occurred.

16. The learned counsel went on to say that what clinched the issue was the statement of the Hon'ble Chief Minister in a public meeting and which meeting was reported in the local newspapers that scientific mining operations would soon begin in the State within 60 days or so after all documentation work and process is completed. A further statement on the same issue was made by the Hon'ble Chief Minister which was reported in the press on 03.05.2023 whereby it was stated that in about 30-45 days, the approval for starting of scientific mining will be given the go ahead.

17. This has thus prompted the respondent No. 1 to approach this Court by

way of a writ petition, inter alia, with a prayer for cancellation of the Lease Deed of the respondent No. 2 herein dated 16.06.2020. This Court vide order dated 18.05.2023 has directed the petitioner/respondent No. 1 herein to seek alternate remedy before the Civil Court and for this reason, has granted status quo of three weeks to enable the respondent No. 1 to do so.

18. The learned counsel has submitted that it was after this Court's order dated 18.05.2023 that the respondent No. 1 approached the appropriate court, that is, the Court of the Assistant to the Deputy Commissioner, South West Khasi Hills by filing the Title Suit No. 1 of 2023 along with an application for injunction and another application under section 80 (2) CPC seeking leave of the Court to dispense with the process of issue of notice upon the Government/defendant/Opp party.

19. The justification of urgency for leave of the Court under section 80 (2) is as has been submitted hereinabove, that is, inspite of the protest letter, the permission was still given to the respondent No. 2, which is but using a different yardstick as far as the process of application of the respondent No. 1 and the respondent No. 2 are concerned. Secondly, the Central Government by according prior approval for grant of mining lease to the respondent No. 2 over the disputed land where there was an overlap of boundaries and finally, the statement of the Hon'ble Chief Minister (supra) is what constitutes urgency and a fit case for being so considered as was done vide the impugned order, submits the learned counsel.

20. Mr. P. Nongbri, learned counsel for the respondent No. 2 in his submission has firstly endorsed the submission and contention raised by the learned GA for the State petitioner and secondly, he has submitted that in the first place, there is no cause of action for the respondent No. 1/plaintiff/applicant to approach the Trial Court by way of filing the suit and consequentially by

applying for leave of the court to dispense with the issue of notice to the State respondent/petitioner herein. The fact being that the overlapped portion as far as the land of the respondent No. 1 and that of respondent No. 2 is concerned as could be seen at page 144 of this petition, refers to only a very small area of land. Thirdly, the respondent No. 1 by his own admission when approval for a Non-Forest Land Certificate for proposed limestone mining was accorded by the Principal, Chief Conservator of Forests (T) and HoFF, Meghalaya, Shillong the land as shown in the map at page 158 of this petition measures only about 46.7 Ha. This means that the disputed portion of about 3.7 Ha was deliberately left out by the respondent No. 1 when he had applied for the said certificate.

21. Dr. N. Mozika, learned DSGI appearing for the respondents No. 11 and 12 respectively, has submitted that the mandate of Section 80(2) CPC provides for leave of the court to institute a suit, seeking urgent or immediate relief against the government, without service of notice upon it as required under Section 80(1) CPC. Leave of the court is a condition precedent and leave has to precede the institution of a suit and until and unless leave is granted, no suit can be registered and no summons or notice is to be issued as regard the institution of the said suit.

22. In the case in hand, what has happened is that before leave of the court is granted the suit was already registered as Title Suit No. 1 of 2023 and summons in Form P(5) CPC was issued by the Trial Court on 29.05.2023. Along with it, the notice as regard the Section 80(2) application was also issued on 29.05.2023. This, according to the learned DSGI is a material irregularity committed by the Trial Court which has seriously prejudiced the defendants in the suit, the same being against the letter and spirit of the code of civil procedure. The case of *Bajaj Hindustan Sugar & Industries Ltd. v. Balrampur Chini Mills Ltd. & Anr.*, reported in (2007) 9 SCC 43 at para 30, 31 and 33 was referred to in support of

the contention made by the learned DSGI.

23. The other respondents, that is, respondents No. 3, 4, 5, 6, 7, 8 & 10 appearing though their respective counsels have more or less endorsed the submission of the learned GA for the petitioner, or have submitted that no argument will be advanced from their side.

24. As to the respondent No. 9/Meghalaya State Pollution Control Board, none have appeared on its behalf and accordingly, this matter shall proceed ex parte against the respondent No. 9.

25. The argument advanced by the parties including the written arguments filed has been duly considered by this Court. From the available materials on record, it is understood that the respondent No. 1 is desirous of filing a civil suit, inter alia, with a prayer for permanent injunction against the Government authorities/petitioner herein for processing any application for mining lease to the respondent No. 2 as against the suit premises. Before the suit is to be filed, the respondent No. 1/plaintiff/petitioner has filed the application under section 80(2) CPC seeking leave of the court to file the suit without issuance of notice upon the Government/defendant on the ground of urgency. The said application having been filed, notice calling for show cause against such application was issued upon all concerned and finally the parties are heard. The Court of the Assistant to the Deputy Commissioner, South West Khasi Hills, Mawkyrwat after hearing the parties has passed the impugned order dated 12.06.2023 allowing the prayer of the petitioner/plaintiff therein.

26. It is the consistent stand of the State petitioner that for a suit to be filed wherein the Government is a party defendant, a notice under section 80(1) CPC is mandatory to be issued, giving 60 days' time for the Government to respond to the same.

27. Stressing on the mandatory nature of such provision, a number of authorities were cited, one of which is the case of Sawai Singhai Nirmal Chand(supra) wherein at para 7 of the same the Hon'ble Supreme Court has observed as follows:

*“7. It would be noticed that the material words used in s. 80 are wide and unambiguous; they are "express, explicit and mandatory", and it would be difficult to except from their operation any proceeding which can be regarded as a suit against the Government. While dealing with the applicability of s. 80, the question to ask is: is it a suit against the Government or not? If it is, then s. 80 by the very force of its words must apply. We have already referred to the provisions of O. 21 r. 63. In terms, the said rule provides that the order passed in the investigation proceedings shall be conclusive, subject to the result of a suit which the aggrieved party may institute. So, there can be no doubt that the proceedings which the aggrieved party commences by virtue of the provisions of O. 21 r. 63, are intended to be a suit. In fact, the present proceedings have commenced with the presentation of a plaint as required by s. 26 of the Code; and the very article under which the plea of limitation is raised against the appellant shows that it is plea in respect of the institution of a suit beyond the period of limitation. It is thus plain that what we are dealing with is a suit and that it is a suit against the Union of India. Therefore, on a fair and reasonable construction of s. 80, we do not see how it is possible to hold that a suit filed under O. 21 r. 63 can be taken out of the provisions of s. 80 of the Code. If we were to accede to the argument urged before us by Mr. Karkhanis for the respondent, we would, in substance, have to add certain words of exception in s. 80 itself, and that plainly is not permissible.”*

28. Again, it is contended that service of notice under section 80 CPC is a condition precedent for institution of a suit against the Government for which the case of Pioneer Builders(supra) at paras 14 to 18 was cited, the same being reproduced herein as below:

*“14. From a bare reading of sub-section (1) of Section 80, it is plain that subject to what is provided in sub-section (2) thereof, no suit can be filed against the Government or a public officer unless requisite notice under the said provision has been served on such Government or public officer, as the case may be. It is well settled that before the amendment of Section 80 the provisions of unamended Section 80 admitted of no implications and exceptions whatsoever and are express, explicit and mandatory. The Section imposes a statutory and unqualified obligation upon the court and in the absence of compliance with Section 80, the suit is not maintainable. (See: Bhagchand Dagadusa v. Secretary of State for India in Counsel; Sawai Singhai Nirmal Chand v. The Union of India and Bihari Chowdhary & Anr. v. State of Bihar & Ors.) The service of notice under Section 80 is, thus, a condition precedent for the institution of a suit against the Government or a public officer. The legislative intent of the Section is to give the Government sufficient notice of the suit, which is proposed to be filed against it so that it may reconsider the decision and decide for itself whether the claim made could be accepted or not. As observed in Bihari Chowdhary the object of the section is the advancement of justice and the securing of public good by avoidance of unnecessary litigation.*

*15. It seems that the provision did not achieve the desired results inasmuch as it is a matter of common experience that hardly any matter is settled by the Government or the public officer concerned by making use of the opportunity afforded by the said provisions. In most of the*

*cases, notice given under Section 80 remains unanswered. In its 14th report (reiterated in 27th and 54th Report), the Law Commission, while noting that the provisions of this section had worked a great hardship in a large number of cases where immediate relief by way of injunction against the Government or a public officer was necessary in the interests of justice, had recommended omission of the Section. However, the Joint Committee of Parliament, to which the Amendment Bill 1974 was referred, did not agree with the Law Commission and recommended retention of Section 80 with necessary modifications/relaxations.*

*16. Thus, in conformity therewith, by the Code of Civil Procedure (Amendment Act, 1976) the existing Section 80 was renumbered as Section 80(1) and sub-sections (2) and (3) were inserted with effect from 1.2.1977. Sub-section (2) carved out an exception to the mandatory rule that no suit can be filed against the Government or a public officer unless two months' notice has been served on such Government or public officer. The provision mitigates the rigours of sub-section (1) and empowers the court to allow a person to institute a suit without serving any notice under sub-section (1) in case it finds that the suit is for the purpose of obtaining an urgent and immediate relief against the Government or a public officer. But, the court cannot grant relief under the sub-section unless a reasonable opportunity is given to the Government or public officer to show cause in respect of the relief prayed for. Proviso to the said sub-section enjoins that in case the court is of the opinion that no urgent and immediate relief should be granted, it shall return the plaint for presentation to it after complying with the requirements of sub-section (1). Sub-section (3), though not relevant for the present case, seeks to bring in the rule of substantial compliance and tends to relax the rigour of sub-section (1).*

17. Thus, from a conjoint reading of sub-sections (1) and (2) of Section 80, the legislative intent is clear, namely, service of notice under sub-section (1) is imperative except where urgent and immediate relief is to be granted by the Court, in which case a suit against the Government or a public officer may be instituted, but with the leave of the court. Leave of the court is a condition precedent. Such leave must precede the institution of a suit without serving notice. Even though Section 80(2) does not specify how the leave is to be sought for or given, yet the order granting leave must indicate the ground(s) pleaded and application of mind thereon. A restriction on the exercise of power by the court has been imposed, namely, the court cannot grant relief, whether interim or otherwise, except after giving the Government or a public officer a reasonable opportunity of showing cause in respect of relief prayed for in the suit.

18. Having regard to the legislative intent noticed above, it needs little emphasis that the power conferred on the court under sub-section (2) is to avoid genuine hardship and is, therefore, coupled with a duty to grant leave to institute a suit without complying with the requirements of sub-section (1) thereof, bearing in mind only the urgency of the relief prayed for and not the merits of the case. More so, when want of notice under sub-section (1) is also made good by providing that even in urgent matters relief under this provision shall not be granted without giving a reasonable opportunity to the Government or a public officer to show cause in respect of the relief prayed for. The provision also mandates that if the court is of the opinion that no urgent or immediate relief deserves to be granted it should return the plaint for presentation after complying with the requirements contemplated in sub-section (1).”

29. The respondent No. 1 has also sought to distinguish the judgments cited

by the petitioner to point out that in the case of Sawai Singhai Nirmal Chand(supra) and the case of Gundugola Venkata Suryanarayana Garu(supra), the proposition set forth in these two cases have no relevance to the case in hand as the same deals with section 80 CPC before it was amended in the year 1977 which saw the insertion of sub-sections 2 and 3, with section 80 in the pre-amendment period now becomes 80(1) in the post amendment period. Though notice is required to be issued to the Government before filing of a suit, however, in the post amendment period of section 80, sub-section 2 was added to allow such suit to be filed without issuance of notice upon the Government, if the plaintiff/petitioner can demonstrate that there is urgency in the matter.

30. Without ignoring the mandatory nature as required under section 80(1), the fact that section 80(2) provides for filing of a suit against the Government within the sixty days' period without notice being served upon it, albeit with leave of the court, the requirement is only that there should be 'urgency' for such course of action, cannot be understated.

31. Before the issue of 'urgency' is discussed, the contention of the respondents No. 11 & 12 that leave of the court has to precede the institution of the suit and for that reason, the impugned order suffers from material irregularity and illegality as the civil suit and the injunction application was already registered and notices issued and thereafter the application seeking leave of the court was heard soon after, will be dealt with first.

32. The respondent No. 1 in reply to the above has submitted that the proviso to section 80(2) has itself indicated that a plaint must necessarily be filed along with the application under section 80(2) and only after the court has heard the parties on the application under the said section, if it finds that there is no urgent need or immediate relief, then the plaint be returned to be filed in the normal course.

33. The case of Sudhir Kumar Sharma(supra) at para 20 was cited by the respondent No. 1 wherein, the Apex Court has observed as follows: -

*“20. It is an admitted fact that no order had been passed on the application filed under Section 80(2) of the CPC. Till a final order is passed granting the said application, in our opinion, the irregularity in filing of the suit continues. If ultimately the application is rejected, the plaint is to be returned and in that event the application filed on behalf of the appellants under Order 7 Rule 11 is to be granted. If the application filed under Section 80(2) is ultimately granted, the objection with regard to non-issuance of notice under Section 80(1) CPC cannot be raised and in that event the suit would not fail on account of non-issuance of notice under Section 80(1) of the CPC.”*

34. The learned counsel for the respondent No. 1 has interpreted the above to say that the plaintiff is required to file the suit and along with it, the application under section 80(2) CPC and until and unless the application under section 80(2) has been disposed of, the filing of the suit would be considered irregular. In the event, the application is not allowed, the plaint will be returned, however, if the application is allowed, the suit will be regularized. This proposition advanced by the respondent No. 1, in the opinion of this Court appears logical. It would be but proper for the court concerned to peruse the contents of the plaint and on consideration of the averments made therein, the prayer for leave to file the suit without notice to the Government defendant would be allowed or disallowed. The contention of the respondents No. 11 and 12 in this regard is found not acceptable by this Court. The case of Bajaj Hindustan Sugar & Industries Ltd v. Balrampur Chini Mills Ltd., (2007) 9 SCC 43 paras 30, 31 & 33 relied upon by the respondents No. 11 & 12, wherein the Hon’ble Supreme Court has referred to the case of Pioneer Builder A.P.(supra) at para 17, is nothing but a reiteration

of the fact that leave of the court must precede institution of the suit, which is totally valid, however, as observed above, it must be borne in mind that a suit filed for the purpose of allowing the court to consider the application of leave under section 80(2), the suit is still irregular until leave is granted, then it is considered instituted and not before.

35. The crux of the matter is whether the Trial Court is justified in passing the impugned order and whether the issue of ‘urgency’ was adequately considered by the court while coming to the decision it has in the impugned order.

36. To the extent of repetition, the grounds upon which the respondent No. 1 has relied to cite urgency is the communication dated 25.04.2023 by the Ministry of Coal, Govt. of India, through the Under Secretary, addressed to the Secretary to the Govt. of Meghalaya, Mining and Geology Department wherein the approval of the Central Government for grant of mining lease to the respondent No. 2 herein, allegedly over the land in dispute was conveyed and also, the statement of the Hon’ble Chief Minister reported in the Shillong Times on 02.05.2023 as well as on 03.05.2023 on the same issue also indicating that all the procedural formalities for final clearance of mining activities will be completed within the next 30-45 days.

37. The respondent No. 1 has also relied on the order of this Court dated 18.05.2023 in WP(C) No. 132 of 2023 to say that this Court in seisin of this situation has directed that status quo be maintained as far as the formalities for processing of the mining lease to the respondent No. 2 is concerned, to enable the respondent No. 1/plaintiff to file an appropriate Title Suit before the concerned court. Therefore, the question of urgency becomes more pertinent. However, this Court in its order dated 18.05.2023 has categorically held that the observations made therein shall not be taken into consideration by the competent

court while dealing with the matter and this Court in this petition herein is also bound by propriety not to consider this aspect at this point of time.

38. The submission of the respondent No. 1 that the court while considering an application under section 80(2) has to hear all the parties concerned, consider the nature of the suit and also look into the contents of the plaint as well as the application is found acceptable by this Court since it is only by looking into the whole gamut of the matter will the court be able to come to any conclusion as to whether it is justified to allow the suit to be filed sans notice to the Government.

39. A perusal of the impugned order would show that the concerned court has given due consideration to the pleaded case of the parties and has also considered the legal aspect of the matter after which on prudent application of mind, the impugned order was passed.

40. In the opinion of this Court, admittedly there is no objection to the assumption of jurisdiction of the trial court except that the petitioner herein has maintained that the impugned order is passed with material irregularity, firstly being cryptic and non-speaking and secondly that the legal parameters for grant of waiver/leave under section 80(2) CPC.

41. However, in view of what has been discussed and observed hereinabove, the fact that the respondent No. 1 do have a right to institute a suit on the ground of any alleged violation of his rights, title and interest, the system would do well to afford all opportunity to any such aggrieved person to approach the court of law, which would in effect prove that there is a robust institution of administration of justice in place. Though the necessity of procedural law cannot be discounted or do away with, however, in particular facts and circumstances, it would be prudent for the court to adopt a liberal approach for ends of justice to be met.

42. This Court finds that there is no infirmity, illegality or material irregularity in the impugned order. The same is accordingly upheld.

43. This petition being devoid of merits is hereby rejected.

44. Petition disposed of. No costs.

**Judge**

Meghalaya

26.07.2023

"Tiprilynti-PS"

