

Serial No.01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

CRP. No. 22 of 2023

Date of Order :31.05.2024

Smt. Dasara Suting
W/o (L) B. Japang,
R/o New Colony, Laitumkhrah,
Shillong -793003,
P.O. & P.S. Laitumkhrah,
Dist. East Khasi Hills.

...Petitioner

-Versus-

Sri. Woling Lyngdoh,
S/o (L) P.Lyngkhai,
R/o Riatsamthiah, Mawkhah,
Shillong – 2,
P.O. Bara Bazar, P.S. Sadar,
Dist. East Khasi Hills.

...Respondent

Coram:

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

Appearance:

For the Petitioner/Appellant(s) : Mr. P.K.Borah, Adv.

For the Respondent(s) : Mr. N.Syngkon, Adv.
Ms. L.Phanjom, Adv.

i)	Whether approved for reporting in Law journals etc:	Yes/No
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ii)	Whether approved for publication in press:	Yes/No
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ORAL

1. The petitioner is before this Court by way of this instant application under 115 of the CPC assailing the order dated 18-08-2023, passed in Title Suit No. 98 of 2022 by the Court of Presiding Officer, Subordinate District Council Court, Khasi Hills, Shillong, whereby the said suit was dismissed for default.

2. A perusal of the impugned order indicates that on 18-08-2023, the Trial Court had recorded that both the parties were absent, and on perusal of the record, it was found that the plaintiff remained absent on five consecutive dates, and it was observed that the absence seem to suggest that the plaintiff was no longer interested to pursue the instant suit filed against the defendant, who also never entered appearance despite of receiving notice from the Court. As such, the suit was dismissed, which has brought the petitioner before this Court.

3. Mr. P.K.Borah, learned counsel for the petitioner has sought to take recourse to Order IX of the CPC which deals with appearance of parties and consequence of non-appearance. Specific mention has been made to Order IX rule 3, which he submits bars the dismissal of a suit when the plaintiff is not present. Order IX rule 3, for the sake of convenience is quoted herein below:

**“ORDER IX
APPEARANCE OF PARTIES AND
CONSEQUENCE OF NON-APPEARANCE.**

***3. Where neither party appears, suit to be dismissed –
Where neither party appears when the suit is called
on for hearing, the Court may make an order that
the suit be dismissed.”***

4. The submissions of the learned counsel for the petitioner relying on the above noted provision seem to be misplaced. As observed earlier, in the instant case, the Trial Court had been patient enough on four earlier consecutive dates, and did not dismiss the suit for default, but on the fifth consecutive date, on non-appearance of the parties, the suit was dismissed for default.

5. Without the need for hearing the other side, as no ground has been made out for interference, the revision petition is dismissed.

Judge

Meghalaya
31.05.2024
“Samantha PS”