

Item No. 1

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

CRP (CRP Art. 227) No. 16 of 2025

Builungpou Kamang Gangmei

...Petitioner

- Versus -

Jinripou Pheiga Gangmei and 3 Others

...Respondents

**B E F O R E
HON'BLE THE CHIEF JUSTICE MR. D. KRISHNAKUMAR**

ORDER

28.03.2025

[1] Mr. A. Sachikumar, learned counsel, appears for the petitioner.

[2] Mr. R.S. Livingstone, learned counsel, takes notice for the respondent No. 1 who is a contesting respondent; Ms. Nikita M., learned counsel assisting Mr. S. Nepolean, learned senior Government Advocate, takes notice for the respondent No. 2. Respondents No. 3 and 4 are not the contesting respondents.

[3] The facts of the case is that the petitioner has filed an Original Suit No. 1 of 2024, application filed under Section 10 of the CPC, against the present respondents as defendants, before the learned Civil Judge (Senior Division), Tamenglong, to decide the petition by the trial court.

[4] Challenging the order dated 08.01.2025 passed by the learned Civil Judge (Senior Division), Tamenglong passed in Judicial Misc. Case No.

39 of 2024 (Ref: Original Suit No. 1 of 2024), the defendant No.1/respondent No. 1 herein, filed an appeal being Misc. Civil Appeal No. 1 of 2025 along with a misc. application being registered as Judl. Misc. Case No. 1 of 2025 (Ref:- Misc. Civil Appeal No. 1 of 2025) for stay of the impugned order dated 08.01.2025. The learned trial court admitted the said appeal and stayed the proceedings of the trial court by passing its order dated 11.02.2025 in the said appeal and connected Judl. Misc. Case No. 1 of 2025 (Ref:- Misc. Civil Appeal No. 1 of 2025) without jurisdiction.

[5] Learned counsel appearing for the petitioner submits that there is no provision under the CPC to file an appeal against the rejection order passed by the trial court and learned counsel for the respondents takes notice to make their submissions.

[6] Today, by consent of parties, the instant civil revision petition is taken up for final disposal at the motion stage itself.

[7] Learned counsel appearing for the petitioner submits that the instant civil revision petition has been filed challenging the impugned order dated 11.02.2025 of the District Judge, Tamenglong passed in Judl. Misc. Case No. 1 of 2025 (Ref:- Misc. Civil Appeal No. 1 of 2025).

[8] Learned counsel for the petitioner has stated that the petitioner has filed the instant revision petition stating that O.S. No. 1 of 2024 was filed before the Civil Judge (Senior Division), Tamenglong and interim order was granted by the Civil Judge (Senior Division), Tamenglong. Challenging the

ex-parte interim order, the respondent No. 1 herein has filed an appeal before the District Judge, Tamenglong in an appeal being Misc. Civil Appeal No. 1 of 2025.

[9] Learned counsel appearing for the petitioner submits that the order dated 08.01.2025 was passed by the learned Civil Judge (Senior Division), Tamenglong in Judl. Misc. Case No. 39 of 2024 (Ref:- O.S. No. 1 of 2024). Challenging the said order passed by the learned trial court, the respondent/defendant filed a Misc. Civil Appeal No. 1 of 2025 before the learned District Judge, Tamenglong, Manipur. The learned District Judge, Tamenglong, Manipur passed the impugned order dated 11.02.2025 and challenging the said order dated 11.02.2025, the petitioner has filed the instant civil revision petition before this Court.

[10] Learned counsel for the petitioner states that the petitioner has filed the declaratory suit being Original Suit No. 1 of 2024 before the court of learned Civil Judge, Senior Division, Tamenglong seeking reliefs viz. (a) decree for declaring that the Defendant No. 1 filed representations dated 03.12.2018 and 25.03.2019 enclosing forged affidavit of Mathew Pheiga Gangmei (pro-forma defendant No. 3) and therefore, that the Government order being No. 9/2/2019-Hills (VA) dated 10.10.2019 issued by the Additional Chief Secretary (TA & Hills), Manipur (pro-forma defendant No. 4) is null and void and also (b) decree for perpetual injunction against the respondent No. 1 herein.

[11] The learned Civil Judge (Senior Division), Tamenglong passed an ex-parte order dated 07.06.2024 in Judl. Misc. Case No. 13/25 of 2024 granting temporary injunction.

[12] The respondent No. 1 had also filed his written statement to the original suit along with an application being Judl. Misc. Case No. 39 of 2024 (Ref:- Original Suit No. 1 of 2024). In the appeal filed by the Respondent, it is stated that the order of the Government of Manipur dated 10.10.2019 was quashed by the order dated 06.02.2024 of the Single Bench of the Hon'ble High Court of Manipur and the Writ Appeal is pending against order of the learned Single Court. By considering Section 10 of the Civil Procedure Code, that too, in the absence of petition been filed before the Court and without giving an opportunity to the petitioner, the ex-parte order passed by the learned District Judge, Tamenglong is liable to be set aside.

[13] Learned counsel appearing for the respondents has stated that the petitioner had already filed the writ petition before this Court in WP(C) No. 985 of 2019 and the said writ petition came to be allowed. Challenging the said order, the intra-court appeals Writ Appeal No. 12 of 2024 was filed by the Government of Manipur and Writ Appeal No. 14 of 2024 was filed by the respondent No. 1, namely Jinripou Pheiga Gangmei and the said writ appeals are pending for disposal before the Division Bench of the Hon'ble High Court of Manipur and the Hon'ble Division Bench have passed its order dated 02.04.2024 in the Writ Appeal thereby staying the said order of the learned Single Judge. In the meantime, the plaintiff/petitioner has also filed

his written objection to the said Judl. Misc. No. 39 of 2024 in the trial court. Learned counsel appearing for the respondent also submits that original suit filed by the plaintiff/petitioner is not maintainable and plaintiff has no Locus Standi to file the said suit before the trial court and therefore, the appellate court has rightly granted the interim order.

[14] Heard the parties and perused the documents.

[15] According to learned counsel for the petitioner, the said ex-parte stay order was granted by the District Judge, Tamenglong without giving any opportunity of being heard to the petitioner and therefore, the petitioner has filed the instant civil revision petition before this court.

[16] This Court is of the view that whether Section 10 of the CPC will be attracted to consider for granting interim stay to set aside the order of the trial court without filing petitions and the appeal filed by the Respondent is maintainable.

[17] It seems that no application has been filed by the respondents under Section 10 of the CPC before the competent court. In such circumstances, therefore, the appellate court is directed to consider the maintainability of the appeal and the learned Appellate Court shall dispose of the Appeal in Misc. Civil Appeal No. 1 of 2025 within 3 (three) weeks from the date of receipt of copy of this order and after giving opportunity of being heard to the parties concerned.

[18] Counsel appearing for the parties undertake to file vakalatnama and counter affidavits before the Appellate Court within 1(one) week from the date of receipt of copy of the order.

[19] With the above direction, the civil revision petition stands disposed of.

CHIEF JUSTICE

Sushil