

(2017) 05 MEG CK 0015
In the Meghalaya High Court
Case No : 7 of 2016

Smti Yorika Suchiang D/o (Late) Ka Khyllaw Suchiang	APPELLANT
Vs	
U Kill Shylla	RESPONDENT

Date of Decision : 25-05-2017

Acts Referred:

[Code of Civil Procedure, 1908](#), [Order 1 Rule 4](#)

Citation : (2017) 05 MEG CK 0015

Hon'ble Judges : S.R.Sen

Bench : Single Bench

Advocate : B.Bhattacharjee, H.Kharmih

Final Decision : Allowed

Judgement

1. Heard Mr. B.Bhattacharjee, learned counsel on behalf of the petitioner and Mr. H.Kharmih, learned counsel on behalf of the respondent.

2. The petitioner's case in a nutshell is that:

That the petitioner as plaintiff filed Title Suit No. 1 of 1998 in the village court of Raliang against the respondent/defendant praying

for declaration and ownership over a paddy field called ""Umbatung"" situated within the Elaka Raliang, Jaintia Hills District.

Subsequently, the said suit was withdrawn from the village court and transferred to Subordinate District Council Court, Jowai and re-

registered as Title Suit No. 2 of 2002. The respondent/defendant contested the suit by filing a written statement by contending inter

alia that his wife is the owner of the paddy field ""Shrah Iawsaw"" which is situated adjacent to the paddy field of the petitioner/plaintiff.

It was the case of the respondent/defendant that he did not claim ownership

over the paddy field of petitioner/plaintiff and only

worked within the land owned by his wife. The learned trial court on the basis of the pleadings of the parties framed as many as

10(ten) issues and both the parties examined 3(three) witnesses each. The learned trial court thereafter by impugned judgment and

order dated 20.03.2014 dismissed the suit of the petitioner/plaintiff and in erroneous exercise of jurisdiction decreed the suit in favour

of defendant/respondent in blatant violation of law. The petitioner/plaintiff being aggrieved filed an appeal bearing Title Civil Appeal

No. 1 of 2014 before the Judge District Council Court, Jowai. The learned appellate court after hearing the parties by the impugned

judgment and order, dated 31.07.2015 dismissed the appeal and affirmed the judgment and order passed by the trial court. As both

the court below had passed the impugned judgment and order dated 23.10.2014 and 31.07.2015 by resorting to improper exercise

of jurisdiction and by travelling beyond the basic norms of law, the petitioner/plaintiff begs to prefer this revision application before

this Hon"ble High Court assailing both the impugned judgments and orders passed by the learned courts below.

3. Learned counsel for the petitioner, Mr. B.Bhattacharjee contended that the petitioner, Smti. Yorika Suchiang filed a Title Suit as a plaintiff

before the Village Court and subsequently it was transferred to the Subordinate District Council Court, Jowai. Learned counsel raised three issues:

(i) Whether the Court has jurisdiction to try the Title Suit No. 1/1998 renumbered as Title Suit No. 2/2002.

(ii) Learned counsel also raised a question whether there is any provision that a decree can be prepared in favour of the defendant.

(iii) Most important question raised was that the petitioner/plaintiff filed the suit for declaration of her land called "Umbatung", but it appears from

the judgment that the Court instead of deciding the issue on "Umbatung" as prayed by the petitioner/plaintiff, the Court has dealt with another land

called "Shrah Iawsaw" in the impugned judgments passed in Title Suit. No. 2/2002 by the Subordinate District Council Court, Jowai and Title

Civil Appeal No. 1/2014 passed by the Judge, District Council Court, Jowai.

4. On the other hand, leaned counsel for the respondent, Mr. H.Kharmih argued

that there is nothing wrong in the judgment passed by the Judge,

District Council Court, Jowai because the plaintiff who is the petitioner before this Court in this revision petition use to object and create problems

and try to encroach into the land of the defendant.

5. After hearing the submissions advanced by the learned counsels for the parties, the fact remains undisputed that "Umbatung" and "Shrah

Iawsaw" are two different lands. Therefore, I am of the view that the learned Judge, District Council Court, Jowai has overlooked the matter and

passed the judgment beyond the prayer made in the pleadings. In the written statement which is at Annexure-II at page 16, para 7 it is clearly

mentioned that the paddy field at "Umbatung" under patta No. 3 is not claimed by the defendant and from the contents of para 11 of the written

statement also it is clear that the defendant was not asking any claim against the "Umbatung" paddy field under patta No. 3. Therefore,

adjudication should be on the paddy field called "Umbatung" under patta No. 3 and not "Shrah Iawsaw" under patta No. 1575.

6. After perusal of this plaint, written statement and the judgment, it appears that the Court got confused from the main issue and interfered with the

issues which are not the subject matter of the Title Suit. Order I Rule 4 CPC makes it clear how a judgment is to be delivered and the same is

reproduced herein below:

ORDER - I

4. Court may give judgment for or against one or more of joint parties - Judgment may be given without any amendments-

(a) for such one or more of the plaintiffs as may be found to be entitled to relief, for such relief as he or they may be entitled to;

(b) against such one or more of the defendants as may be found to be liable, according to their respective liabilities.

7. After reading Order I Rule 4 of the CPC, I am satisfied that the Court has no power, jurisdiction or scope to pass a decree in favour of the

defendant in the present case. Since the core issue has not been decided in accordance with the law as discussed above and to make it more clear,

the Title Suit No. 2/2002 was pertaining to the land called "Umbatung" under patta No.3, therefore, to decide the issue of the other plot of land

called "Shrah Iawsaw" under patta No. 1575 does not arise in the case of Title

Suit No. 2/2002. Therefore, I am of the considered view that the judgment passed by the learned Presiding Officer of the Subordinate District Council Court, Jowai in Title Suit No. 2/2002 as well as judgment

passed by the Judge, District Council Court, Jowai in Title Civil Appeal No. 1/2014 are both bad in law and facts and needs to be set aside.

Accordingly, the impugned judgment and order dated 20-03-2012 passed by the Presiding Officer, Subordinate District Council Court, Jowai in

Title Suit No. 2/2002 and impugned judgment and order dated 31-07-2015 passed by the Judge, District Council Court, Jowai in Title Civil

Appeal No. 1/2014 are hereby set aside and the matter is remanded back to the learned Trial Court to look into it afresh after giving equal

opportunity to the parties.

8. Accordingly, revision petition is allowed to that extent and stands disposed of. Registry is directed to transmit the lower court case record along

with the copy of the judgment and order to the concerned Court immediately.