
(2019) 07 MAN CK 0006
In the Manipur High Court
Case No : Civil Review Petition No. 23 Of 2017

Thiyam Ningol Laishram Ongbi Shanti Devi	APPELLANT
Vs	
Thiyam Ningol Irengbam Ongbi Mema Devi And Others	RESPONDENT

Date of Decision : 16-07-2019

Acts Referred:

Citation : (2019) 07 MAN CK 0006

Hon'ble Judges : Kh. Nobin Singh, J

Bench : Single Bench

Advocate : T. Rajendro, Ch. Dhananjay

Final Decision : Allowed

Judgement

Kh. Nobin Singh, J

[1] Shri T. Rajendra, learned Advocate appearing for the petitioner and Shri Ch. Dhananjay, learned Senior Advocate appearing for the respondents.

[2] The instant civil revision petition is directed against the order dated 23.06.2017 passed by Civil Judge, Senior Division, Imphal East in Civil Misc. Case No.121 of 2017.

[3.1] Facts and circumstances which have led to the filing of the present civil revision petition and as narrated therein, are that the petitioner instituted suit being Original Suit No.16 of 2016 against the respondents for declaration of title with consequential reliefs. While disposing of/ allowing the said suit, the learned Civil Judge, Senior Division, Imphal West passed a judgment and decree dated 04.10.2016 for decreeing the suit, a relevant portion of which reads as under:

"It is hereby ordered and decreed that the plaintiff is the owner of the suit land in Schedule-A and further ordered and decreed that the defendants be evicted from the suit land by removing/ demolishing the structures described in the Schedule-B of the plain and further ordered and decreed that the defendants, their men, agents and privies are hereby restrained from the peaceful possession

of the suit land by the plaintiff after eviction and handing over of the suit land to the plaintiff"

[3.2] After the said judgment and decree being passed by the learned Civil Judge, Senior Division, Imphal East, the petitioner instituted a case being Execution case No.13 of 2016 for executing the said decree dated 04.10.2016 by issuing a writ of delivery of possession for execution of the decree directing the Bailiff to execute the decree on or before 05.12.2016, followed by an order dated 06.02.2017 passed in the execution case for issuing a warrant of execution of the decree by directing the Bailiff to execute the decree on or before 18.02.2017 with the help of police personnel. The said order dated 06.02.2017 was passed by learned Civil Judge, Imphal East, as there was serious resistance and defiance from the respondents and their men in executing the decree. But as the said decree dated 04.10.2016 could not be executed, the learned Civil Judge, Senior Division had to pass an order 30.03.2017 directing the Bailiff to execute the decree on or before 13.04.2017 with the assistance of police personnel. Accordingly, the said decree was executed 13.04.2017 by evicting the respondents from the suit land and also by demolishing the standing Kutcha structure. After the decree being executed, the suit land was handed over to the petitioner and accordingly, the learned Civil Judge, passed an order dated 18.04.2017 for closing and disposing of the said execution case.

[3.3] It may be noted that the decree dated 04.10.2016 restrained the respondents, their men, agent and privies from the peaceful possession of the suit land after eviction and handing over the suit land to the petitioner. It is the specific finding in the decree dated 04.10.2016 that the petitioner is the owner of the suit land and the respondents be evicted from the suit land by removing/ demolishing the structures from her land. In other words, the decree dated 04.10.2016 and the orders passed in the Execution Case No.13 of 2016 very clearly show that the petitioner shall be in possession of the suit land as its owner without interference from the respondents, their men, agents and privies.

[3.4] Surprisingly on 23.04.2017, the respondents with the assistance of their other family members forcefully entered into the suit land in complete disobedience and defiance of the decree dated 04.10.2016 as well as orders passed by the learned Civil Judge, Senior Division in the execution case. The respondents and their family members, by use of force and against the request of the petitioner, re-erected the kutcha structure which was demolished in the execution of the decree and forcefully with the use of the muscle power, started staying in the newly erected kutcha structure inside the suit land. The acts of the respondents are of such nature that it substantially interfered or tend to interfere with the due course of the justice. The respondents even openly declared that the decree of the learned Civil Judge, Senior Division, Imphal East could not do anything to them and they were not bothered in doing the said illegal acts in complete disobedience of the decree dated 04.10.2016 and the directions and orders passed by the learned Civil Judge, Senior Division in the execution case .

[3.5] Accordingly, the petitioner filed an application being judicial Misc. Case No.121 of 2017 before the learned Civil Judge, Senior Division, Imphal East for giving punishment to the respondents for their such act of contempt by willfully disobeying the decree dated 04.10.2016 and orders passed by the execution Court. However, the learned Civil Judge, Imphal East, acting in a superficial manner and also by committing material illegalities and irregularities, passed the order dated 23.06.2017 observing that the petitioner might file a new civil suit before the competent court or might file a criminal case against the respondents for their illegal activities and if not satisfied thereafter, for referring the matter to the High Court of Manipur. Hence, the instant civil revision petition has been filed by the petitioner.

[4] The stand taken by the respondents in their affidavit in opposition is that they are law abiding citizens and they have not disobeyed the judgment and decree passed by the learned Civil Judge, Senior Division. The judgment and decree was passed ex-parte and being aggrieved by it, they have preferred an appeal which is pending for disposal by the District Judge, Imphal-East. Moreover, they were not aware of the Civil Misc. Case No.121 of 2017 being filed, as no notice was served upon them. But the learned Civil Judge, senior Division has rightly passed the order dated 23-06-2017 holding that the Court has become functus officio after passing the order dated 18-04-2017 in the execution case and that the remedy available for the petitioner is to approach the appropriate forum by way of a new suit or a criminal case.

[5] The facts of the case are not in dispute and the short question that arises for consideration is as to whether the acts and deeds of the respondents, after the allegation being made by the petitioner that the respondents have forcibly entered into the suit land in complete disobedience of the decree by re-erecting kutcha structure, would prima facie amount to contempt of Court, for which the learned Civil Judge, Senior Division would be required to refer the matter to the Hon'ble High Court for taking appropriate action against the respondents.

[6] The learned Civil Judge, Senior Division, while disposing of the application being Civil Misc. Case No.121 of 2017 by which the Court was prayed for referring the matter to the High Court for initiating proceeding for contempt of Court, rejected the prayer. The reasons for refusal by the learned Civil Judge, Senior Division are inter-alia that after the order having been passed in the execution case, it had become functus office and that nothing was left to be done by it. According to the learned Civil Judge, Senior Division, since the alleged forcible entry into the suit land by the respondents by re-erecting kutcha structure was a fresh cause of action, the petitioner might approach the competent Court by way of a new civil suit or the petitioner might file a criminal case against the respondents for their illegal acts.

[7] It is well known that the Court does pass orders from to time keeping in mind the facts and circumstances of the case, either in the form of interim or final, which are to be complied with by the concerned parties. The disobedience of

such order may entail penal consequences as provided under the provisions of the Contempt of Court Act. If the parties are not required to comply with the order passed by the Court, there is no point of having a judiciary in the country. The judiciary is considered to be the third organ of the Government as mandated in the Constitution of India. Our country is governed by rule of law which is to be interpreted and upheld by the judiciary. It is therefore mandatory for all the concerned to comply with the order passed by the Court and to ensure such compliance, the Contempt of Court Act came to be enacted in the year, 1971. The introduction of it has been for the purpose of securing a feeling of confidence of the people in general and for due and proper administration of justice. It is a powerful weapon in the hands of the Courts.

[8] On perusal of the judgment and decree, it is seen that it has been ordered and decreed that the petitioner is the owner of the suit land in Schedule-A; that the respondents be evicted from the suit land by removing/ demolishing the structures described in the Schedule-B of the plain and that the respondents, their men, agents and privies have been restrained from the peaceful possession of the suit land by the petitioner after eviction and handing over of the suit land to the petitioner. The judgment and decree is not only for eviction of the respondents from the suit land but also to restrain them from interfering with the peaceful possession of the suit land by the petitioner. Therefore, a mere passing an order in the execution case is not enough and it is for the learned Civil Judge, Senior Judge to see that its judgment and decree has been fully obeyed by the judgment debtor or not. In the present case, after the respondents being evicted from the suit land, hardly ten days later they forcibly entered into the suit land and re-erected the kutcha structure meaning thereby that they have failed to obey and honour the judgment and decree. If this sort of disobedience of the judgment and decree is to be treated as a fresh cause of action for which the petitioner is required to approach the Court again, there will be no end to litigation. There is no guarantee that in the event of a judgment and decree being passed by a Court in a fresh suit, the respondents would obey it. This is not what is expected in a litigation. The appellate forums are provided in the judicial system. If a party is aggrieved by any order passed by a court, it is open to him to prefer an appeal. Admittedly, in the present case, the respondents have already preferred an appeal against the judgment and decree passed by the learned Civil Judge, Senior Division and therefore, it is open to the respondents to make appropriate prayer before the appellate court for staying the operation of the judgment and decree. Without following the procedure prescribed in law, the respondents cannot be permitted to take the law in their own hands. The question of *functus officio* will not arise in respect of the proceedings initiated under the provisions of the Contempt of Court Act. Even in a criminal case, if filed by the petitioner, the issue whether the respondents have forcibly entered into the suit land in defiance of the judgment and decree passed by the learned Civil Judge, Senior Division as alleged by the petitioner, will be required to be examined and considered by the Court.

[9] For the reasons stated hereinabove, the instant civil revision petition is allowed and consequently, the order dated 23-06-2017 passed by the learned Civil Judge, Senior Division in Civil Misc. Case No.121 of 2017 is quashed and set aside.