



Serial No.07
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

W.A.No.2/2024 & W.P.(C) No.406 of 2023

Date of Order: 15.02.2024

(W.A.No.2/2024)

Philamon Mawrie Vs. Laitumkhrah Dorbar Shnong, represented
by Chairman/Rangbah Shnong

(W.P.(C) No.406 of 2023)

Laitumkhrah Dorbar Shnong, represented
by Chairman/Rangbah Shnong Vs. State of Meghalaya & ors

Coram:

Hon'ble Mr. Justice S. Vaidyanathan, Chief Justice
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Appellant : Mr. V.G.K. Kynta, Sr.Adv with
Mr. H. Wanshong, Adv

For the Respondents : Mr. N. Syngkon, Adv with
Ms. L. Phanjom, Adv
Mr. S. Sen, Sr.GA

i) Whether approved for reporting in Law journals etc.: Yes

ii) Whether approved for publication in press: Yes

J U D G M E N T

(Made by Hon'ble, the Chief Justice)

The present Writ Appeal has been filed against the interim order dated 20.12.2023 of the learned Single Judge wherein, besides holding that as per the last order of the Division Bench, there should be no hindrance to use the ground for public purpose and also permission to be obtained for holding the odd fair, it has been held as under:



“6. In this view of the matter, as the usage of the ground is in public interest and the interest of the community as a whole, it is directed that respondent No.2 while considering any prayer for grant of permission, is to take into account that there are no orders operating presently in the Title Suit that prevents or bars of holding of any such programme. The decision if any, for grant of permission, is to be taken on its own appreciation on a case to case basis.”

Being aggrieved by the said interim order, the present appeal has been preferred.

2. Though the Writ Appeal is directed against the interim order, we are of the view that no purpose would be served in keeping the Writ Petition pending and therefore, in the interest of justice, we have taken up both the Writ Appeal and Writ Petition together so as to give quietus to the issue. Since the Writ Petition is not listed before us today, Registry shall prepare a supplementary list for the purpose of listing the Writ Petition before us today itself.

3. The minimum facts that are required for the purpose of understanding the case are that the Writ Petitioner was denied permission by R2 and R3 therein to use Madan Iewrynghep / Suit Property based on a report of the Superintendent of Police, East Khasi Hills District, Meghalaya and therefore, a Writ Petition was filed, in which the afore-stated interim order was obtained, against which, the



Appellant, who has been impleaded as a Third Party in the Writ is before this Court, stating that this is the second round of litigation over the usage of the ground and the order dated 09.11.2023 passed by the Civil Court has been grossly misinterpreted by the Writ Petitioner so as to obtain the interim order.

4. A reading of the pleadings of the parties would reveal that the property is situated at Fire Brigade, Laitumkhrah, which is known as Madan Iew Rynghap ground. Earlier a Writ Petition was filed in W.P.(C) No.519 of 2022, wherein an interim order of stay was obtained by the very same Appellant herein, against which Writ Appeal in W.A.No.5 of 2023 was preferred before the Division Bench in which, one of us (Justice W.Diengdoh) was a party to the proceedings and the Division Bench passed the following order:

“6. As to the order of the Deputy Commissioner dated November 12, 2022, status quo will be maintained in the sense that the land will be permitted to be used as a playground and, in the very exceptional case, subject to the previous permission of the Deputy Commissioner, the odd fair may be allowed, but this should not exceed more than two a year till such time that the dispute as to title is resolved by the appropriate forum. However, if the appellant does not institute an appropriate suit canvassing title in respect of the land in question within a period of three months from date, the effect of the order passed by



the Deputy Commissioner on November 12, 2022 will remain undiluted.”

5. The main contention of the Writ Petitioner, who is the 1st respondent herein is that the odd fair permission that has been granted to be conducted twice a year includes a Trade Fair and that the land has been devolved upon the writ petitioner and that a title suit is pending before the Civil Court in Misc.Case No.77 of 2023 arising out of Title Suit No.30 of 2023. When the appellant herein has no right or title to the property in question, preventing the 1st respondent herein / writ petitioner in conducting the Trade Fair as directed by the Court amounts to violation of the order of the Court.

6. A cursory glance at the pleadings makes it very clear that the suit is pending before the District Council Court at Shillong bearing T.S.No.30 of 2023 for declaration of right, title, interest, confirmation of possession and permanent injunction along with miscellaneous application and the matter is still pending for final adjudication.

7. The Writ Petitioner ought not to have approached this Court by invoking the extraordinary jurisdiction of this Court to decide a private issue, when the suit is already pending. The prayer in the writ petition reveals that there is a private dispute between the parties, for which relief



has been sought for. Though the writ petitioner stated that the R1 and R2 are the ultimate authorities to grant permission and that the writ petition is maintainable, in the present writ petition, no relief has been sought for challenging the decision of the authority, more so when no decision has been taken in the present case on hand. Private issues cannot be resolved by exercising the extraordinary jurisdiction of this Court in terms of the judgment of the Apex Court in the case of **Anandi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti Mahotsav Smarak Trust and Ors. Vs. V.R.Rudani and Ors** reported in **AIR 1989 SC 1607**, which has been subsequently followed in yet another judgment in **St. Marys Education Society and Ors. Vs. Rajendra Prasad Bhargava and Ors.** reported in **(2023) 4 SCC 498**.

8. Hence, we are of the view that the writ petition itself is not maintainable. However, in order to give a quietus to the matter, we expect the Presiding Officer, Subordinate District Council Court at Shillong to take up T.S.No.30 of 2023 on a day to day basis without adjourning the matter beyond seven working days at any point of time and bring the issue to a logical end within a period of six months from the date of receipt of a copy of this judgment.



9. In fine, the Writ Appeal in W.A.No.2/2024 is disposed of and the^{2024:MLHC:82-DB}
Writ Petition in W.P.(C) No.406 of 2023 stands dismissed.

(W.Diengdoh)
Judge

(S.Vaidyanathan)
Chief Justice

Meghalaya
15.02.2024
"*lam* DR-PS"/"ar"