

HIGH COURT OF MEGHALAYA**Bench: Justice H. S. Thang Khiew****Date of Decision: 31.10.2023**

SA No. 1 of 2022

Smti. Clara Batskhem Nonghuloo Appellant**Versus****Smti. Anju R.T. Khriam Respondent****Section, Acts, Rules, and Article:**

Section 100, 151, Order 39 Rule 1 and 2 of the Civil Procedure Code (CPC)
Rule 3 of the High Court of Meghalaya (Jurisdiction over District Council
Courts) Order 2014

Order 6 of the High Court of Meghalaya (Jurisdiction over District Council
Courts) Order 2014

Subject: Appeal against orders from the District Council Court relating to an
eviction suit concerning 'Sweety Studio' premises at Laitumkhrah, Shillong,
and subsequent miscellaneous proceedings arising within the suit.

Headnotes:

Appeal to High Court – Appeal under Rule 3 of the High Court of Meghalaya
(Jurisdiction over District Council Courts) Order 2014 and Section 100 CPC
against orders from District Council Court regarding an eviction suit
concerning a property known as 'Sweety Studio' in Shillong. The appeal,
initially a Second Appeal, is treated as a Civil Revision Application upon
appellant's request. [Para 1-6]

Maintenance of Status Quo and Restraint Order – Issuance and review of
status quo order by the Trial Court, leading to a restraint order against the
respondent preventing entry and business operation in the premises until final
hearing on injunction. [Para 2-4]

Examination of Impugned Order – Examination of impugned order dated
20.05.2022 by the Lower Appellate Court, with the High Court noting that the
main eviction suit was kept in abeyance while miscellaneous proceedings
were pursued aggressively. [Para 7-8]

Directions for Restoration of Electricity and Expedited Disposal – Upholding
of electricity restoration to the premises, allowing respondent's business
operations during pendency of eviction suit. Direction to the Trial Court for
expedited disposal of the main eviction suit, disregarding unrelated findings
from the impugned order. [Para 9-9(iii)]

Final Disposal and No Order as to Costs – Final disposal of the Revision Application with no order as to costs, and instructions for immediate transmission of lower court records back. [Para 10-12]

Referred Cases: Not mentioned in the provided excerpt of the judgement.

Representing Advocates:

For the Petitioner/Appellant(s): Mr. S. R. Lyngdoh, Adv., Mr. K.V.E. Kharnongbak, Adv.

For the Respondent(s): Mr. N.M. Mansuri, Adv.

JUDGMENT AND ORDER

1. This instant Appeal under Rule 3 of the High Court of Meghalaya (Jurisdiction over District Council Courts) Order 2014, read with Section 100 CPC, is directed against judgment and order dated 20.05.2022, passed in MCA No. 7 of 2021, by the Additional Judge, District Council Court, and order dated 07.10.2021, passed in Misc. Case No. 35 of 2021, by the Sub-ordinate District Council Court.
2. The brief facts of the case are that, the appellant as plaintiff had filed an eviction suit being Eviction Suit No. 2 of 2019, for declaration of right, eviction, ejectment and recovery of possession, amongst other reliefs over the suit premises known as ‘Sweety Studio’ situated at Laitumkhrah, Main Road, Shillong. Thereafter, the appellant had filed a Misc. Case under Order 39 Rule 1 and 2, which was registered as Misc. Case No. 48 of 2020, wherein the Trial Court vide order dated 15.06.2020, directed the parties to maintain status quo. The appellant not satisfied with the order of status quo dated 15.06.2020, filed a review application on 23.06.2020, wherein on the said review application, the Trial Court modified the order of status quo, by restraining the respondent/defendant

from entering into the suit premises and from conducting any business therefrom, until the injunction was finally heard. The respondent/defendant then filed an application under Section 151 CPC, for recall of the order dated 23.06.2020, which was registered as Misc. Case No. 55 of 2020, but the same came to be dismissed by the Trial Court vide order dated 10.07.2020.

3. Against the above noted dismissal order dated 10.07.2020, the respondent/defendant filed an appeal before the Appellate Court which was registered as Misc. Civil Appeal No. 1 of 2020 on 13.08.2020. The Appellate Court then disposed of the appeal and set aside the order dated 23.06.2020, by order dated 10.09.2020.

The respondent/defendant then filed their written statement on 05.03.2021.

4. However, in the meanwhile, as the electricity connection to the suit premises was disconnected by the appellant/plaintiff, on 14.09.2021, the respondent then filed an application for restoration of the electricity connection on 15.09.2021, which was registered as Misc. Case No. 35 of 2021, which was allowed by an ex-parte interim order dated 17.09.2021. As the electricity was not restored, as allowed by order dated 17.09.2021, the respondent on 28.09.2021, then filed another Misc. Case alleging disobedience, but while the same was pending adjudication, the appellant/plaintiff filed an application for vacating the order dated 17.09.2021, which was then allowed by the Trial Court, by its order dated 07.10.2021. Against the order dated 07.10.2021, the appellant then preferred an appeal before the Appellate Court, which was

registered as Misc. Civil Appeal No. 7 of 2021, and on hearing the appeal, the same was allowed and disposed of by the impugned order dated 20.05.2022. Hence, this Appeal before this Court.

5. As the instant application had been styled as a Second Appeal, this Court at the time of consideration for admission of the same, had directed the parties to file the substantial questions of law, which were to be examined by this Court, in the adjudication of the matter. The learned counsel for the appellant had then accordingly, filed the substantial questions of law, as formulated by him, but the learned counsel for the respondent however, maintained that there were no substantial questions of law involved and that in fact, even a Second Appeal would not lie against the impugned order dated 20.05.2022. This submission was based on the premise that, the orders in question, especially the one against which the instant appeal had been preferred, all arose from the Miscellaneous Applications which had been filed by the parties, and is not against a judgment or decree. On this ground, being advanced by the respondent, the counsel for the appellant, then sought the indulgence of this Court, to treat the instant appeal as a Revision Application.
6. In consideration of the submissions and the prayer of the appellant, as also the nature of the case, and on perusal of the impugned order and the fact that, the suit had not proceeded beyond the stage of filing of written statement, inspite of the same being instituted since 2019, accordingly, this Court allows the prayer of the appellant, and this Appeal will stand converted and treated as a Civil Revision Application under

Order 6 of the High Court of Meghalaya (Jurisdiction over District Council Courts) Order 2014.

7. Heard learned counsels for the parties. Without being drawn into the matter in controversy, as reflected in the various orders that have been passed both by the Trial Court and the Lower Appellate Court, as has been narrated above, this Court will confine itself to the examination of the impugned order dated 20.05.2022, rendered in Misc. Civil Appeal No. 7 of 2021. In their submissions, on the part of the appellant, it has been argued that, the Lower Appellate Court had entered into the main merits of the matter, and in fact, it had not only appreciated new facts and documents, which were never raised or relied upon by the respondent before the Trial Court, but that, the impugned order had created a new right of tenancy, apart from confirming the possession of the respondent as a tenant. On the part of the respondent, it has been submitted that, the right to an electricity connection, to the suit premises which were under the possession of the respondent, cannot be denied as per law, and that the Lower Appellate Court, had therefore passed a correct order, which did not call for any interference.
8. This Court on an examination of the impugned order dated 20.05.2022, and other connected orders, leading up to the same, notes that in the pursuit of interim reliefs from the courts below, the main suit which should have proceeded appears to have been kept in cold storage. A fact that cannot be ignored in this respect, is that, the respondent/defendant while aggressively contesting the Misc. Cases filed in the suit, since

its institution on 11.07.2019, neglected to file her written statement, which was done only on 05.03.2021. Another aspect, that is noticed in the impugned order, is that, findings have been rendered, with regard to issues, which were yet to be tried, such as, the tenancy status of the respondent, as also the appreciation of the tenancy agreement, and whether the respondent/defendant was paying rent or in default thereof, when the question before the Lower Appellate Court, was only with regard to the electricity connection to the suit premises.

9. In the considered view of this Court therefore, the findings on the other issues, which are yet to be framed and still to be tried by the Trial Court, are to be disregarded and no reliance should be placed by the Trial Court, in the adjudication and trial of the main suit. However, the finding that, the supply of electricity to the suit premises shall no way change the character of the suit premises, is not interfered with and is upheld. Accordingly, this Revision Petition is disposed of with the following directions: -

- (i) The electricity connection to the suit premises shall be restored, if the same has not already been done, and the respondent/defendant permitted to conduct her business, in the said suit premises under her present occupation, during pendency of the eviction suit and until final orders are passed.
- (ii) Considering the fact that, the Eviction Suit has been languishing all these years due to the miscellaneous proceedings, the Trial Court shall take up the suit for expeditious disposal and complete the same, preferably within a period of 18(eighteen) months from the date of receipt of records from this Court.

- (iii) The Learned Trial Court shall not be influenced or take into consideration the other findings given in the impugned order, as to tenancy, the tenancy agreement and question of rent payment and shall proceed with the trial on issues that are to be framed on the basis of the pleadings in the plaint and written statement.
10. As ordered above, this Revision Application is finally disposed of.
11. There shall be no order as to costs.
12. Lower Court records to be transmitted back immediately.

© All Rights Reserved @ LAWYER E NEWS

*Disclaimer: Always compare with the original copy of judgment from the official website.