

IN THE COURT OF THE SENIOR CIVIL JUDGE, AIZAWL DISTRICT, AIZAWL MIZORAM
Rev. Application No. 7/10 Arising out of Eviction Suit No. 3/2010

F. Rithanga
Vairengte, Kolasib District,
Mizoram & ors.

.....Plaintiff.

-Versus-

R. Remthanga,
S/o Rochhuma,
Vairengte, Kolasib District,
Mizoram.

.....Defendant.

BEFORE

R. VANLALENA, Senior Civil Judge-2

For the Plaintiff : W. Sam Joseph, Advocate.
For the Defendants: C. Zoramchhana, Advocate.
Date of Judgement: 6.2.2012

JUDGEMENT

6.2.2012

Ld. Counsel Shri C. Zoramchhana present on behalf of the plaintiff/respondent.

Ld. Counsels Shri W. Sam Joseph & others on behalf of the defendant/petitioner present.

Today is fixed for further hearing on the matter/petition for review of the order dated 11.10.2010 passed by this court which closed the chance for filing written statement after lapsed of 9 (nine) months. The defendants both State Government Departments and private defendants had been given chance for filing their written statement since dt. 17.02.2010 but failed to file their respective written statements within a period of 9 months, by reasons of which this court passed the said order closing the chance to file written statements and defendants were thus precluded from taking further step in this case.

Ld. Counsel Shri C. Zoramchhana submitted that due to negligence, the defendants could not file their respective written statements in spite of the fact that more than sufficient time was available to them for taking step. This court had time and again informed and instructed the defendants to submit their respective written statements but failed to submit the same. Consequently, this court had passed the said order dated 11.10.2010 which precluded the defendants to take part in the Eviction Suit No. 3/2010 and thus ordered ex-parte proceeding in this case. As such was the facts, ld. Counsel Shri C. Zoramchhana prayed this court to reject the review petition stating the non-filing of the written statement was due to sheer negligence on the part of the defendants.

I have heard ld. Counsels Shri W. Sam Joseph on behalf of defendants/petitioner No. 5-13 and Shri Joseph Lalfakawma, Asst. Govt. Advocate on behalf of defendants/petition No. 1-4 who both submitted that they failed to submit written statements within such period due to mistaken of the name of the parties. After they came to file written statement, this court had passed the order dated 11.10.2010 by which their chance for filing written statement was closed, hence filed a petition CMA No. 7/2010 for review of the said order seeking a leave to file written statement. In support of their submission, the ld. Counsels cited a decision of the Hon'ble Gauhati High Court Principal Bench decided in Sreenivas Basu Dev -Vs- Vineet Kumar Kothari in W.P.(C) No. 8457 of 2005 and case No. 5066 of 2005 between Rani Kusum -Vs- Kanchan Devi.

I have carefully heard both the submission of the parties. I have also considered their respective submissions. I have perused materials available on hand.

This court is inclined to reject the revision petition on the ground that the time schedule contained in Order-VIII, Rule I of Code of Civil Procedure 1908 is to be followed as a rule and departure therefore would defeat the spirit of the said provision keeping in view the need for expeditious trial of civil cases. Hence the prayer of the defendants/petitioners for extension of time cannot be granted. Accordingly, the review petition No.7/2010 Arising out of Eviction Suit No.3/2010 is rejected.

With this order, the petition stands disposed of.

Sd/-R.VANLAENA
Senior Civil Judge – II
Aizawl District : Aizawl.

Memo No. /SCJ-I I(A)/2012: Dated Aizawl the 6th February,2012.
Copy to:

1. The District and Sessions Judge, Aizawl District, Aizawl, Mizoram for information.
2. F.Rithanga, Vairengte, Kolasib District, Mizoram & ors.
3. R. Remthanga, S/o Rochhuma, Vairengte, Kolasib District, Mizoram.
4. Shri W.Sam Joseph, Advocate concerned.
5. Shri Zoramchhana, Advocate concerned.
6. Registry Section.
7. Case record.

PESHKAR