

IN THE COURT OF ADDITIONAL SESSIONS JUDGE
AIZAWL JUDICIAL DISTRICT, AIZAWL, MIZORAM.

Present : Shri Vanlalenmawia, MJS
Additional Sessions Judge,
Aizawl Judicial District, Aizawl.

Criminal Revision No.16 of 2016

The Unity Church, General Hqrs., Aizawl, Mizoram
(Represented by its Executive Secretary Rev. Dr. Thangluaia)

...Revision Petitioner

-Versus-

1. Sub-Divisional Magistrate,
Aizawl District, Aizawl.
2. Shri P.C.Biakzauva,
R/o Saitual, Aizawl District.
3. Shri R.Rohnuna,
R/o Bawngkawn, Lunglei Road, Aizawl.
4. Shri R.Lalduhawma,
R/o Falkawn, Aizawl.
5. Shri Zodinsanga,
R/o Falkawn, Aizawl.
6. Shri Chawngzika,
R/o Thuampui, Aizawl.
7. Shri R.Biakhlira,
R/o Ramhlun South, Aizawl.
8. Shri R.Rochhunga,
R/o Zuangtui, Aizawl.
9. Shri Ramtharngbaka,
C/o R.Biakthuama
Ramhlun South, Aizawl.
10. Shri M.C.Lalrinthanga,
R/o Khatla, Aizawl.

11. District Magistrate
Aizawl, Mizoram.

..... **..Respondents**

APPEARANCE

For the petitioner	:	Shri H.Laltanpuia, Advocate .
For the respondent	:	Shri Rualkhuma Hmar, Advocate.
Hearing	:	20.6.2016
Order delivered on	:	21.6.2016

ORDER

The revision petition has been filed under section 397 read with 399 of Cr PC to set aside and quash the impugned order Vide Memo No. J.1101/37/2015-dc (A)/8 dated 20.1.2016 passed by the Shri H.Lalhmingthanga, Sub-Divisional Magistrate, Aizawl District, Aizawl.

2. As the revision petition is transferred to me by the learned Sessions Judge for disposal, this Court has exercised power of revision provided by Section 397 read with 400 of Cr PC.

3. As agreed by the rival parties, the present case can be disposed without requisition of the case record or file of the Sub-Divisional Magistrate.

4. In the impugned order passed by the Sub-Divisional Magistrate, the tenants of the Unity Church/ Lalchungkua Unity Charge are directed to deposit payable rental charges to the Officer-in-Charge, Aizawl Police Station pending disposal of the civil case.

5. In short, the petitioner as the Unity Church as well as the Lalchungkua Unity Church claims immovable and movable properties in dispute of the instant case. It appears to me that the order was passed by the Executive Magistrate due to the dispute which is likely to cause a breach of peace.

6. I heard the learned Counsel Shri H.Laltanpuia appearing for the petitioner as well as the learned Counsel Shri Rualkhuma Hmar for the respondents.

7. Both the learned Counsels appearing for the rival parties submitted long story of the existence of their churches in the hope of getting possession of the properties in issue.

8. I come to know from the learned Counsels that Declaratory Suit No. 1 along with I.A. No. 13 of 2016 filed by the petitioner has been pending in the court of the learned Civil Judge (Senior Division) and Declaratory Suit No. 3 of 2016 filed by the respondents has also been pending in the Court of the learned Civil Judge (Senior Division) since its institution. I am also informed by the learned Counsels for the rival parties that they are ready to pursue the cases pending in the Court of learned Civil Judge (Senior Division).

9. Upon perusing the order dated 13.1.2016 passed by the learned Civil Judge (Senior Division), I also come to know that ad-interim measure in I.A. No. 13 of 2016 arising out of Declaratory Suit No. 1 of 2016 was passed against the Opposite Parties restraining them not to evacuate the suit building and from doing any act within the suit building till final disposal of I.A No. 13 of 2016. Whatever is the order, the present respondents as opposite parties can challenge the order passed in I.A. No. 13 of 2016 in the same forum inasmuch as the application is not yet disposed off.

10. The Apex Court in Jhummamal alias Devedas v. State of Madhya Pradesh 1988(4) SCC 452 has observed:

'7. It will be obvious from the order of the High Court that the decision of this Court in Ram Sumer's case has been totally misunderstood. In that case, a title suit for possession and injunction in respect of certain property was instituted before the civil court. The suit was dismissed on February 28, 1981. The matter was taken up in appeal. When the appeal was pending for disposal, proceedings under Section [145](#) Cr.P.C. were initiated with regard to the

same property. In that proceedings, the Magistrate passed a preliminary order under Section 145 (1) of the Cr.P.C. and also attached the property. The aggrieved party challenged that order in a revision petition before the Allahabad High Court. The High Court refused to interfere with that order. But this Court quashed the proceedings under Section 145 Cr.P.C. observing:

There is no scope to doubt or dispute the position that the decree of the civil court is binding on the criminal court in a matter like the one before us. Counsel for respondents 2-5 was not in a position to challenge the proposition that parallel proceedings should not be permitted to continue and in the event of a decree of the civil court, the criminal court should not be allowed to invoke its jurisdiction particularly when possession is being examined by the civil court and parties are in a position to approach the civil court for interim orders such as injunction or appointment of receiver for adequate protection of the property during pendency of the dispute. Multiplicity of litigation is not in the interest of the parties nor should public time be allowed to be wasted over meaningless litigation. We are, therefore, satisfied that parallel proceedings should not continue and the order of the learned Magistrate should be quashed.'

11. On hearing the rival parties and after perusing the order dated 13.1.2016 passed by the learned Civil Judge (Senior Division), I find that the order dated 20.1.2016 passed by the Sub-Divisional Magistrate, Aizawl as it seems interfering with the jurisdiction of the Civil Court, cannot be sustained in law in view of the observation of the Apex Court's decision and Section 146 of Cr PC. Accordingly, the impugned order dated 20.1.2016 is hereby set aside and quashed.

12. The rival parties are advised to pursue their matter in Civil Court.

13. The revision petition is disposed off.

Order is pronounced in open Court on this 21st day of June, 2016
under my hand and seal of this Court.

Sd/-VANLALENMAWIA
Addl. Sessions Judge,
Aizawl Judicial District,
Aizawl, Mizoram

Memo No. _____/ASJ(A)/2016 : Dated Aizawl, the 21st June, 2016

Copy to: -

1. Rev. Dr. Thangluaia through Counsel Sh. H. Laltanpuia, Advocate.
2. The District Magistrate, Aizawl.
3. The Sub - Divisional Magistrate, Aizawl District, Aizawl.
4. Shri. PC. Biakzauva through Counsel Sh. Rualkhuma Hmar.
5. District Judge, Aizawl Judicial District, Aizawl.
6. Smt. Lalrochami Ralte, Civil Judge (Senior Division), Aizawl District, Aizawl.
7. Officer-in-Charge, Aizawl Police Station.
8. Registration Section.
9. Guard File.
10. Case Record.
11. Calendar Judgment.

P E S H K A R