

(2012) 01 GAU CK 0053

Gauhati High Court (Imphal Bench)**Case No:** CRP(C.R.P Art 227) No. 24 of 2011

Okram Kala Singh & Anr.

APPELLANT

Vs

Okram Achou Singh & Ors.

RESPONDENT

Date of Decision: Jan. 10, 2012**Acts Referred:**

- Civil Procedure Code, 1908 - Order 8 Rule 9
- Civil Procedure Code, 1908 (CPC) - Order 8 Rule 9

Citation: (2012) 1 GLT 465**Hon'ble Judges:** T.Nandakumar Singh, J**Bench:** Single Bench**Advocate:** Advocate appeared for the Petitioners: Mr. Mr. Kh. Chonjohn, Advocate appeared for the Respondents: Mr. Mr. Kh. Rajeskumar, Advocates appearing for Parties

Judgement

T. Nandakumar Singh, J.

Heard Mr. Kh. Chonjohn, learned counsel appearing for the petitioner and Mr. Kh. Rajeskumar, learned counsel for the respondentsplaintiffs.

2. This Revision Petition is directed against the judgment and order of the learned Civil Judge (Jr. Division No.1, Manipur East) amhpelpat dated 12.8.2011 for a limited permission to the respondentsplaintiffs to file replication only to the para 3 and 4 of the written statement.

3. On perusal of the impugned order dated 12.8.2011, it is crystal clear that the whole replication consisting of 13 pages had not been accepted, but only the portions of the replication reply to the para Nos 3 and 4 of the written statement had been accepted. Operative portion of the impugned order dated 12.8.2011 read as follows:

"Considered both sides submissions along with the enclosed replication proposed to be filed which runs 13 pages and the relevant record with the documents thereon.

And it appears that the facts alleged by the defendants in their written statement at para No.3 and 4 needs to be controverted by the plaintiffs by way of giving their reply with reasons or clarification thereof. And for this, the whole of para No.3 and para No.4 but partly excluding a portion of para No.4, i.e. from the word "and" after the words "Oinam Thingel" till the end of the sentence on page 3 of the proposed replication, are found to be necessary for determining the real dispute between the parties and that the same if allowed to be filed is not going to change the nature and character of the suit nor is it likely going to cause prejudice to the opposite party. However, the rest of the proposed replication are merely reply to every averments made in the written statement is not only redundant but also not acceptable for if, replication in this form is allowed to be filed then there will be no end to pleadings. In view of the above reasons I am inclined to allow the replication only to that extent only as mentioned above in the interest of justice while rejecting the rest of the application. Hence, the replication is partly allowed and partly rejected."

4. This Court can exercise power for revision under Section 115 of the Code of Civil Procedure, 1908 against the order passed by the Subordinate Court only when the subordinate Court:

(a) has exercised a jurisdiction not vested it by law; or

(b) has failed to exercise a jurisdiction so vested; or

(c) has acted in the exercise of its jurisdiction illegally or with material irregularity.

5. On perusal of the order dated 12.8.2011, it is crystal clear that the trial Court passed the impugned order within its jurisdiction and also it appears that there is no material irregularity committed by the learned trial court in passing the impugned order dated 12.8.2011.

6. For the reasons discussed above, this Court is not interfering with the impugned order dated 12.8.2011. Accordingly, this revision petition is dismissed.