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Court : Guwahati

Decided On : Feb-15-1983

Judge : K. Lahiri and T.C. Das, JJ.

Acts : Manipur Land Revenue and Land Reforms Act, 1960 - Sections 95; [Code of Civil Procedure \(CPC\) , 1908](#) - Order 1, Rule 9

Appeal No. : Civil Rule No. 27 of 1983

Appellant : Ksh. Achouba Singh and ors.

Respondent : L. Achouba Singh and ors.

Advocate for Def. : Th. Munindro Kumar Singh, G.A.

Advocate for Pet/Ap. : A. Jagat Chandra Singh, Adv.

Disposition : Petition allowed

Judgement :

Lahihi, J.

1. This is an application under Article 226 of the Constitution for as order and/or a writ in the nature of certiorari and projected against the order dated 18-12-1982 passed by the Presiding Officer, Revenue Tribunal, Manirpur in Tribunal Revenue Revision Case No. 26 of 1982.

2. The petitioners were aggrieved by the order of allotment in respect of land covered by C. S. Dag No. 1141, ever which the petitioners claimed right of allotment. Being aggrieved by the order of the Deputy Commissioner, the petitioners filed an application under Section 95 of the Manipur Land Revenue and Land Reforms Act 1960; for short, 'the Act'. The petitioners claimed allotment in respect of C. & Dag. No. 1141 of Leis-hangthem Village No. 8, Thoubal Tahsil and disputed the allotment made in favour of the five opposite parties in the said dag. The petitioners were not not concerned with nor had they any interest or connection in respect of allotment made in dags other than Dag No. 1141, and hence they did not make the allottees of other dags as parties in the proceeding. The revision petition came up for hearing before the learned Tribunal which dismissed the revision solely on the ground that the petitioners did not make the allottees of dags numbers 1144, 1147, 1146, 1139, 1159, 1119, 1117, 1120, 1157, 1158, etc., numbering 30 persons as opposite parties in the said revision petition. The learned Tribunal-held that the petitioners were only interested in respect of land covered by Dag No. 1141 of village Leishangthem-and were not concerned with any other dags. Yet, the learned Tribunal held that those 30 allottees in respect of other dags should have been made opposite parties. The sole reason was that for failure to implead the other allottees mentioned in, the allotment order disentitled the petitioners from getting any relief for setting aside the allotment order. We have failed to fathom why the Tribunal could not have determined the rights of the parties and/or their rights to obtain allotment in respect of dag No. 1141. We also fail to see why the petitioners should be burdened with the onerous duty of impleading the said 30 persons against whom the petitioners had no grievance or arouse. The petitioners were aggrieved by the order of settlement in respect of C. S. Dag number 1141 and the Tribunal could have clearly decided the rights of the parties inter se. Further, the learned Tribunal, in our opinion, has failed to distinguish the difference between 'proper party and 'necessary party'. In our opinion the said 30 allottees had no interest whatsoever in respect of dag No. 1141. The right of the petitioners vis-a-vis the opposite parties in respect of dag number 1141 could have been fairly and squarely determined by the learned Tribunal without making the said persons parties to the proceedings before it. Under these circumstances, we are constrained to hold that these 30 allottees

were never necessary parties. It is true that in view of the amendment made by Civil P. C. (Amendment Act) of 1956, a suit may be dismissed for non-joinder of necessary party. However, this extreme penalty of dismissal of a suit for non-joinder of the necessary parties could be done only upon granting reasonable opportunity to the plaintiff to add necessary parties to the suit. Without affording any reasonable opportunity, even a Civil Court cannot dismiss a suit for non-joinder of necessary parties. It will be evident from the provisions of Order 1. Rule 10 (2) of the Civil P. C. that whenever a Court finds, during the course of proceedings of a civil action, that a party has been improperly joined, it may strike out the name of the improperly joined party. Similarly, if the Court finds that any person who ought to have been joined or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, it can order the party to be added as party to the suit. The provisions of Order 1, Rule 10 (2) is indicative of the fact that when the Court finds that the party who ought to be added, it can add the party and direct the plaintiff to take necessary steps. In the instant case the controversy was whether all those 30 allottees were necessary and/or proper parties in the said proceeding. The case of the petitioners had been that they were not necessary parties, whereas the opposite parties contended that all those 30 allottees were also necessary parties. Upon determination of the issue, if the learned Tribunal would have come to the conclusion that they were necessary parties, it was duty bound to call, upon the other allottees to be added as parties or should have given a reasonable opportunity to the petitioners to implead them as opposite parties. In the instant case the petitioners were thrown out of Court without granting them any opportunity to add the said allottees as parties. However, we are of the view that the Tribunal could and should have effectually and completely adjudicated upon and settle all the questions involved in the revision, which arose between the petitioners and the opposite parties, without adding the said 30 allottees as party-respondents.

3. For the foregoing reasons we hold that the learned Tribunal has committed an error of law apparent on the face of the record, which has resulted miscarriage of justice and this Court is duty bound to correct the error of the learned Tribunal and to grant appropriate relief to the petitioners in exercise of its power under Article

226 of the Constitution, which we hereby do.

4. In the result, we hold that the impugned order is liable to be quashed and accordingly we quash the same. We remit the matter to the learned Tribunal for decision of the entire matter in dispute in accordance with law. The learned Tribunal should consider once again as to whether presence of the other 30 allottees in the proceedings are at all necessary to decide the fate of the Revenue Revision pending before it. If the learned Tribunal holds that the matter cannot be disposed of without presence of those allottees, it shall grant reasonable opportunity to the petitioners to take steps to add them as party-respondents and thereafter, upon hearing all the parties, decide the revision in accordance with law.

5. If any of the parties who is/are not before us is/are aggrieved by this order, he or they may come up for amendment, alteration or cancellation of this order. We have decided the question upon hearing the learned Government Advocate and on perusal of the judgment. We do not consider it necessary to hear the other opposite parties for the reasons that it would cause undue delay in disposal of a simple revision matter. However, the opposite parties shall be at liberty to submit all their say before the learned Tribunal during the hearing. In the result, the petition is allowed and the matter is remitted back to the learned Tribunal for disposal of the Revenue Revision case as expeditiously as possible. There will be no order as to cost.

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