

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
Cont. Case (SH) No. 10 of 2013

23.09.2013

Heard Mr. L Khyriem, the learned counsel for the petitioner.

Also heard Mr. ODV Ladia, the learned counsel for respondents No. 2,3 & 4 as well as Mr. R Gurung, the learned counsel for respondent No. 1.

The learned counsel for the respondents intends to file show case.

Prayer is allowed.

List this matter on 30.09.13.

JUDGE

V. Lyndem

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
Crl. MC (SH) No. 52 of 2013 in
Crl. Rev. P.(SH) No. 60 of 2013

23.09.2013

In the light of the order passed in Crl. Rev. P (SH) No. 60 of 2013, this instant Misc. Case also stands disposed of.

JUDGE

V. Lyndem

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
Crl. Rev. P.(SH) No. 60 of 2013

23.09.2013

Heard Mr. CH Mawlong, the learned counsel as well as Mr. M Shangpliang, the learned counsel for the petitioner who submit that, in this instant case on the basis of the police report the Executive Magistrate, South West Khasi Hills, Mawkurwat drawn a proceeding under Sections 107/145 CrPC and passed an order directing both the parties to show cause and fixed 13.08.13 for appearance at 1:00 PM. Though the petitioner was present but the Magistrate concerned was not available, so the petitioner has to leave the place since she is staying far away and no order was passed on 13.08.13. The learned Executive Magistrate on 29.08.13 passed an order without hearing the petitioner.

The learned counsel further contended that, in connection with the plot of land in question, there was already a settlement between the petitioner the third party namely; Smti. Rita Massar but for the reasons best known to the Syiem of Langrin, he issued another lease agreement in favour of the respondent, as a result, confusion arise between the parties. The learned counsel also contended that, the impugned order dated 29.08.13 has been passed exparte and further contended that he could not filed the written statement in time as the copy was not received and prayed that the said order may be set aside.

On the other hand, the learned counsel for the opposite party, Mr. BM Roy Doloï placed his objection for setting aside the impugned order in question.

After hearing the submissions advanced by the learned counsel for the parties and on perusal of the record keeping in mind the facts and circumstances of the case, I am of the opinion that, to decide such a case both the parties need to be heard and if necessary evidence needs to be adduced. Besides that, in my opinion without impleading the Syiem of Langrin and Smti. Rita Massar it will be difficult on the part of the Court concerned to come to any conclusion. Therefore, it is hereby directed to hear both the parties i.e. the petitioner and the respondents by giving them fair opportunities and adduce evidence in support of their respective cases and also to impleade the Syiem of Langrin as well as Smti. Rita Massar.

In the meantime, the extracted coal deposited in the area should not be disturbed and the matter to be disposed of within 3(three) months from the date of receipt of this certified copy.

With these observations and directions, both the parties are directed to approach the Court concerned.

Accordingly, the impugned order dated 29.08.13 is hereby set aside and the matter stands disposed of.

JUDGE

V. Lyndem