

**BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR. JUSTICE S.R. SEN**

14.05.2015

Mr. K.S. Kynjing, learned Advocate General, assisted by Mr. S. Sen Gupta, learned GA, appears for the petitioners.

None appears for the respondent.

During the course of hearing of this writ petition, it came to our notice that, item No. 4 of the second schedule to the Rules of Executive Business of the Government of the State of Meghalaya, contains the subject connected with the exercise of powers by the Chief Justice under proviso 1 and 2 of Article 229 of the constitution, whereas, the powers of the Chief Justice under Article 229 are quite explicit and any Rules made in contravention or conflict therewith cannot be sustainable. Hence, issue notice to the Chief Secretary, Government of Meghalaya, Shillong to file affidavit clarifying the position.

Learned Advocate General of the State of Meghalaya shall produce the office file connected with the framing of the second schedule as the aforesaid for the perusal of Court.

List the matter on *22.05.2015*.

JUDGE

CHIEF JUSTICE

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**BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH**

14.05.2015

Mr. HR Nath, learned counsel, appears for the appellant.

Mr. S.Sen Gupta, learned GA, represents the respondents.

Learned counsel for parties pray for and are granted further
1 (one) week's time to submit the case laws on the points impugned
herein, list the matter on 21.05.2015.

JUDGE

CHIEF JUSTICE

Sylvana

WP(C) No. 9/2015
With WP(C) No. 23/2015
WP(C) No. 16/2014
WP(C) No. 17/2014
WP(C) No. 18/2014
WP(C) No. 19/2014
WP(C) No. 20/2014
WP(C) No. 203/2012
WP(C) No. 94/2013
WP(C) No. 117/2013
WP(C) No. 385/2013
WP(C) No. 386/2013
WP(C) No. 387/2013
WP(C) No. 388/2013
WP(C) No. 123/2008
WP(C) No. 124/2008
WP(C) No. 126/2008
WP(C) No. 133/2008
WP(C) No. 86/2013
WP(C) No. 87/2013
WP(C) No. 88/2013

BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH

14.05.2015

Mr. D.Senapati, learned counsel, appears for the petitioner.

Mr. R. Deb Nath, learned CGC, represents the respondents.

Learned counsel for the petitioner prays for further time to file additional documents with copies of notifications as mentioned in order dated 23.03.2015 which are supplied by Mr. R. Deb Nath, learned CGC to Mr. D. Senapati, learned counsel during the course of proceedings. As per joint request, list this matter on 25.05.2015.

JUDGE

CHIEF JUSTICE

Sylvana

**BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH**

14.05.2015

Ms. Q.B. Lamare, learned counsel, appears for the petitioner.

Mr. R. Deb Nath, learned CGC, represents the respondents.

On request made on behalf of Mr. V.K. Jindal, learned senior counsel who is said to be in the midst of bereavement, the matter is adjourned for 1 (one) week. List the matter on 21.05.2015.

JUDGE

CHIEF JUSTICE

Sylvana

BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR. JUSTICE S.R. SEN

14.05.2015

Mr L Byrsat, learned counsel, appears for the applicant.

Mr SP Das, Advocate/respondent present in person.

Mr L Byrsat, learned counsel, prays for adjournment on the ground that Mr HS Thangkhiew, learned senior counsel for the applicant is on sanctioned leave. Thus, the matter is adjourned for two weeks. List on 28.05.2015.

JUDGE

CHIEF JUSTICE

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BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR. JUSTICE S.R. SEN

14.05.2015

Mr K Paul, learned counsel, appears for the appellants.

Mr L Khyriem, learned counsel, represents the respondents.

We have heard learned counsel for parties and perused the prayer for interim relief.

This order shall also dispose of the prayer for interim relief in connected WA No. 74 of 2014 and WA No. 76 of 2014.

During the course of proceedings, it was brought to our notice that the nature of land appears to be essentially a forest land with hundreds of trees of different varieties standing thereon. Thus, according to learned counsel, the case would be squarely covered by the definition of 'Forest' under the Forest (Conservation) Act, 1980 and also Section 2 of the Meghalaya Forest Regulation (Amendment) Act, 2012. Therefore, there is a request for staying the judgment of learned single Judge during the pendency of the appeal. We have also noticed that in the order passed by the Division Bench dated 07.01.2013, there is a partial stay only with regard to the possession of the land, whereas, in the instant appeal, the issue that is being contested relates to registration of the land and exercise of power of cancellation by the Autonomous District Council. It would appear from the application submitted to the Deputy Forest Officer, Jaintia Hills Autonomous District Council, Jowai dated 11.09.2006 that the land is having substantial number of trees of different varieties which also

included the following trees, namely, Shyrnang, Laphiang, Psian, Litieh Lapiang, Syieng Tasong and the hordes of other varieties.

The fact that the land is in nature of forest is also supported by the resolution of the Executive Committee of the Jaintia Hills Autonomous District Council dated 07.01.2010. The operative portion of the resolution is reproduced hereunder :

“..... As such in view of the violation of the principles of natural justice and the fact that civil suits in the competent courts of law were instituted before the issuance of the impugned notification dated 24.03.2008 the same is set aside and quashed. Any registration or notification with regard to the forest in question namely “Khlaw Mynthning” shall await the outcome of the civil proceedings and thereafter be proceeded in accordance with Rule 8 and 9 of the Rules by the Chief Forest Officer. Matter is accordingly disposed off.”

In that view of the matter, we accept the prayer for interim relief and grant stay of the operation of the judgment of learned single judge in so far as the same pertains to the registration of the land. We also direct that the hearing of Title Suit No.7 of 2007 and Title Suit No. 10 of 2007, pending before the Presiding Officer, Subordinate District Council Court, shall be concluded within a period of three months from the date of receiving a copy of this order. However, we also clarify that the Subordinate Court shall not be influenced by any observations made herein or any of the orders passed by this Court in deciding the suit.

List the matter on 01.09.2015.

JUDGE

CHIEF JUSTICE

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