

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

MC(EI. Petn.) No. 7 of 2025
(Ref:- EI. Petn. No. 9 of 2022)

Konthoujam Govindas Singh
 Vs.

... Applicant

Oinam Nabakishore Singh & anr.

... Respondents

**B E F O R E
 HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH
O R D E R**

11-03-2025

Heard Mr. A. Mohendro, learned counsel appearing for the applicant and Mr. N. Ibotombi, learned senior counsel assisted by Mr. A. Rommel, learned counsel appearing for the respondent No. 1 and Md. Fakhruddin, learned counsel appearing for the respondent No. 2.

The present application has been filed with the prayer for framing additional issues as proposed in para 3 of the present application, which are as under:-

- "1. Whether the three storey building over the homestead land under Dag No. 4313 measuring an area of 0.13739 acres at Village No. 42 Keishamthong is a commercial building or not? If the said three storey building is a commercial building, has the respondent No. 1 disclose the said building in Part A Para 7B(iii) of his form 26 affidavit.***
- 2. Whether such non-disclosure of the commercial building over the homestead land under Dag No. 4313 at Village No. 42 Keishamthong would amount to 'undue influence' or not?***
- 3. Whether non-disclosure of the caste of the respondent would amount to undue influence or not?"***

Mr. N. Ibotombi, learned senior counsel appearing for the respondent No. 1 raised strong objection with regard to framing of the

additional issues. It has been submitted by the learned senior counsel that so far as the proposed additional issue No.1 is concerned, the applicant is trying to improve his case by proposing for framing of the said issue. The learned senior counsel submitted that nowhere in his El. Recr. Petn., the applicant has specifically pleaded that the respondent No. 1 did not disclosed his building in Part A Para 7B(iii) of his Form 26 affidavit. Accordingly, the learned senior counsel submitted that framing of such issue will amount to allowing the applicant to improve his case and such proposal should not be allowed.

In reply, Mr. A. Mohendro, learned counsel submitted that even though the applicant did not specifically pleaded in his election petition that he did not disclosed the said building in Part A Para 7B(iii) of his Form 25 affidavit, the applicant specifically pleaded in para 12(ii) of his El. Recr. Petn. that the respondent No. 1 deliberately concealed the fact of the said building and did not disclosed it in the Commercial Building column. The learned counsel, accordingly, submitted that the said proposed amendment is necessary for determining the real controversy in issue.

Taking into consideration this fact, this court is of the considered view that it will be in the interests of justice to frame one additional issue which are as under:-

- (i) Whether the three storey building over the homestead land under Dag No. 4313 measuring an area of 0.13739 acres at Village No. 42 Keishamthong is a commercial building or not? If the said three storey building is a commercial building, has respondent No. 1 disclosed the said building in the Commercial Building column of his Form – 26 affidavit.

So far as the proposed issue No. 2 is concerned, there is merit in the objection raised by the learned senior counsel that the applicant has not pleaded anything in his El. Recr. Petn. and as such, framing of the second proposed issue is impermissible and not necessary and such proposal should be rejected.

Mr. A. Mohendro, learned counsel submitted that even though the applicant did not make any specific pleading in his El. Recr. Petn., framing of such issue is necessary as the said proposed issue No. 2 is a question of law.

Taking into consideration the submission advanced by the learned counsel appearing for the parties, this court is of the considered view that framing of additional issue No. 2 as proposed is not permissible inasmuch as the petitioner has not pleaded anything in his El. Recr. Petn. and as such, the proposed second issue is hereby rejected.

So far as the proposed issue No. 3 is concerned, Mr. N. Ibotombi, learned senior counsel raised strong objection on the ground that the applicant has not specifically stated the name of the caste to which the respondent No. 1 belong and that the proposed amendment is vague and it is not required to be framed additional issue at all. In answer, Mr. A. Mohendro, learned counsel submitted that the applicant has specifically pleaded in para 12(i) of his El. Recr. Petn. that the respondent No. 1 did not disclosed that he belongs to a Scheduled Caste and that non-disclosure of such facts has resulted in undue influence and as such, the additional issue No. 3 is very much required to be framed for deciding the real controversy in the El. Recr. Petn.

After considering the rival submissions advanced by the learned counsel appearing for the parties and on careful perusal of the

averments made by the applicant in para 12 of his El. Recr. Petn., this court is of the considered view that it will be in the interests of justice to frame the following additional issue:-

- (ii) Whether non-disclosure of the Scheduled Caste of the respondent No. 1/ petitioner in the El. Recr. Petn. would amount to undue influence or not?

With the framing of these above two additional issues, the present application stands disposed of.

JUDGE

Devananda

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

El. Petn. No. 9 of 2022

Oinam Nabakishore Singh

... Petitioner

Vs.

Konthoujam Govindas Singh & anr.

... Respondents

With

**El. Recr. Petn. No. 9 of 2022 &
MC(El. Petn.) No. 58 of 2022**

**B E F O R E
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH**

O R D E R

11-03-2025

Mr. N. Ibotombi, learned senior counsel appearing for the election petitioner submitted that because of the two additional issues framed today in connection with the El. Recr. Petn. No. 9 of 2022, the learned counsel prays that the election petitioner be allowed to recall DW1 in the said El. Recr. Petn. for his further examination in connection with the said two additional issues framed today. The learned senior counsel further submitted that recalling of the DW1 for his further examination is necessary as examination-in-chief and cross examination have already concluded in El. Recr. Petn. No. 9 of 2022 on 23-11-2023.

Mr. A. Mohendro, learned counsel submitted that he has no objection.

Further, the petitioner in the El. Recr. Petn. is hereby directed to submit the examination-in-chief of the witnesses on or before 13-03-2025 with advance copy to the learned counsel appearing for the election petitioner and registry is directed to place the record of these cases before the appointed Advocate Commissioner on 20-03-2025 for further examination of the PWs in connection with the election petition.

JUDGE

Devananda