

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

RSA No. 4 of 2021

Soibam Gunindro Singh.

...Appellant

- Versus -

Smt. Ongnam Ningol Loidang Devi & 2 Ors.

...Respondents

**With
MC(RSA) No. 4 of 2022**

**B E F O R E
HON'BLE THE CHIEF JUSTICE MR. SANJAY KUMAR**

ORDER

11-05-2022

Heard Th. Henba, learned counsel, appearing for the appellant; and Mr. H. Nabachandra, learned counsel, appearing for respondent Nos. 1 & 2.

The second appeal is admitted for consideration of the following substantial questions of law:

"1) Whether rejection of the application for amendment of the Written Statement of the Defendant No. 2 (Appellant herein) by the District Judge, Imphal East vide order dated 06/10/2018 passed in Judicial Misc. Case No. 72 of 2018 on the sole technical ground that amendment of pleading at appellate stage is not maintainable is sustainable or not; more so when the defendant No. 2 (Appellate herein) in the application for amendment has stated that in his written statement had pleaded that O. Tababi Devi (grandmother of defendant No. 1), through whose shoe the defendant No. 1 and his subsequent transferee, defendant No. 2 (present Appellant) continued possession of a portion of 0.15 acre (Plaint Schedule-B land) as owner thereof, had possessed the suit land (plaint Schedule-A land) as owner thereof for more than 40 years and that the amendment sought for was only about the legal effect of such continuous

possession as owner i.e. whether the suit is hit/barred by adverse possession. If rejection is not sustainable whether the impugned decree dated 26/02/2020 passed in First Civil Appeal No. 2 of 2017 would be set aside or not?

II) Though specific issue as to whether suit is hit/barred by adverse possession is not framed because of the want specific legal plea in the Written Statement that suit is barred/hit by adverse possession; because of failure of trial court to frame proper issue according to the pleadings, as to “whether the Tababi Devi had been possessing the Suit land (Plaint Schedule-A land) for more than 40 years as owner thereof by recording her name in the land records; and if so, whether her grandson O. Premjit (Defendant No. 1), by entering his name as co-pattardar/co-owner with her in the land record continued possession of the Schedule-B land (measuring 0.15 acre which is part of Suit land) as owner thereof and then by his subsequent transferee, the defendant No. 2?” whether the real dispute between the parties was not considered and tried in the suit? And if so its effect?”

Registry is directed to call for the records of the courts below and prepare the paper books for hearing of this appeal in due course of time.

Earlier interim order shall stand extended until further orders.

CHIEF JUSTICE

Victoria