

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

RFA No. 1 of 2008

Ng. Udoichand & Anr.

.... Appellants

- Versus -

S. Ibohal Singh & 7 Ors.

.... Respondents

BEFORE

HON'BLE MR. JUSTICE MV MURALIDARAN

06.06.2019

Appellants in this appeal are the plaintiffs in OS No. 49 of 2004 filed before the Trial Court.

While filing the written statement, the respondent herein who are the defendants in the suit have raised their issues that the suit itself is res judicata on the ground that the legal heirs of the third defendant in OS No. 26 of 1977 are filed this present suit.

Therefore, the trial Court raised a preliminary issue on the ground that whether the suit is res judicata or not. Accordingly, the trial Court considered that it is res judicata. Therefore, the present suit in OS No. 49 of 2004 was dismissed in which the present

appeal has been filed by the plaintiffs.

When this appeal was taken up for hearing on 02.06.2015, the very same question was raised by the respondent herein since the plaintiffs are the LRs of 3rd defendant in OS No. 26 of 1977, the present suit has been filed. Therefore, it is res judicata.

Considering the respondents' case, this Court by order dated 02.06.2015 directing the Civil Judge, (Junior Division) Imphal West to call for the records in OS No. 26 of 1977 which was disposed of on 07.06.1982.

When the matter is taken up today, the records in OS No. 26 of 1977 was not called for in which the Registry of this Court informed that though the parties in OS No. 26 of 1977 are not the parties of the present suit in OS No. 49 of 2004.

But admittedly, the respondent represented that legal heirs of the third defendant in OS No. 26 of 1977 are the plaintiffs in the suit. Therefore, it is res judicata.

Hence, the Registry is directed to call for the records in OS No. 26 of 1977 dated 07.06.1982 passed by the learned Civil Judge (Junior Division), Imphal West on or before 22.07.2019.

Since the appeal is pending from 2008, almost 11 years pursuant to the order of the Hon'ble Supreme Court in which the Hon'ble Supreme Court directing this Court to dispose of the ten years old cases, both the parties are directed to advance their arguments on 22.07.2019 without fail. On the said date no

adjournment will be granted on any reasons since this second appeal is pending for the past 11 years.

Registry is directed to post the matter finally for hearing on 22.07.2019.

JUDGE

Lynda