



Serial No.01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

CRP No.28 of 2026

Date of decision : 28.09.2026

Rt. Revd. Dr. Michael Herenz, aged
 about 55 years, Son of Lt. Peter Herenz,
 Bishop, Diocese of North
 East India, Church of North India,
 having address at Bishop's Kutti, M. G.
 Road, I.G.P., Shillong, Meghalaya 793001.

..... Petitioner

-VERSUS-

1. The Synod of the Church of North
 India, CNI Bhawan, 16, Pandit Pant
 Marg, New Delhi – 110001.

2. Rev. Dr. D. J. Ajith Kumar, General
 Secretary, CNI Synod, CNI Bhawan, 16,
 Pandit Pant Marg, New Delhi -110001

..... Respondents

Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. C. Garg, Adv.
 Mr. S. Thapa, Adv.

For the Respondent(s) : Mr. K. Khan, Sr. Adv. with
 Mr. E. Ahmed, Adv.

Judgment and Order (Oral)

1. Heard Mr. C. Garg, learned counsel appearing for the petitioner and Mr.



K. Khan, learned Senior counsel assisted by Mr. E. Ahmed, learned counsel appearing for the respondents.

2. This revision petition is directed against the impugned order dated 25.08.2026 passed by the learned Assistant District Judge, Shillong in Petition No. 86 of 2026 arising out of Title Suit No. 14 (H) of 2026 whereby prayer of the petitioner to withdraw the title suit along with the connected miscellaneous proceedings with liberty to file a fresh suit was only partially allowed.

3. The brief fact of the case necessary for consideration of the instant revision petition is that, the petitioner as plaintiff instituted Title Suit No. 14 (H) of 2026 before the Court of the Assistant District Judge, Shillong challenging the letter dated 10.04.2026 issued by the respondent No.2 asking the petitioner to proceed on leave pending enquiry and to hand over charge of the Diocese. During the pendency of the suit, the respondents initiated disciplinary proceedings and enquiry which resulted in issuance of the termination letter dated 27.07.2026 against the petitioner with immediate effect. In view of the development, the petitioner filed Petition No. 86 of 2026 under Order 23 rule 1(3) CPC before the Trial Court seeking withdrawal of the entire suit with liberty to institute a fresh comprehensive suit. The respondents did not file any objection against the aforesaid petition for withdrawal. After hearing the parties, the learned Trial Court by the impugned order dated 25.08.2026 allowed the prayer of the petitioner for the withdrawal of the suit, but granted liberty to file a fresh suit only with regard to a part of the whole cause of action. Being aggrieved, the petitioner has preferred the instant revision petition before this Court.

4. Mr. C. Garg, learned counsel appearing for the petitioner, submits that the impugned order is totally erroneous as the learned Trial Court has failed to exercise its proper discretion strictly in terms of the provision of Order 23 rule 1(3) CPC. He submits that it was inappropriate for the Trial Court to bifurcate the cause of action and claim of the petitioner without there being



any written statement and adjudication on merit. He submits that the learned Trial Court travelled beyond the scope of Order 23 rule 1(3) CPC and most erroneously proceeded to observe that the subsequent termination of the petitioner fundamentally altered the controversy and rendered the original suit infructuous. According to the learned counsel, the very approach of the Trial Court in dividing the cause of action and granting liberty to file a fresh suit only with regard to one part of the claim is unknown to the established norms of law. He, therefore, prays that the impugned order may be interfered and the petitioner be permitted to withdraw the Title Suit No. 14 (H) of 2026 with liberty to file a fresh comprehensive suit.

5. Mr. K. Khan, learned Senior counsel appearing for the respondents does not dispute that the scheme of Order 23 rule 1(3) CPC allows withdrawal of the entire suit with liberty to file a fresh suit and, in his usual frank and fairness submits that necessary order may be passed.

6. The submissions made on behalf of the respective parties and perusal of the materials on record reveals that the petitioner's challenge in the Title Suit No 14 (H) 2026 was mainly against the letter dated 10.04.2026 issued by the respondent No.2. Afterwards, the Petition No. 18 of 2026 under Order 23 rule 1(3) CPC came to be filed by the petitioner seeking withdrawal of the entire suit with liberty to file a fresh suit due to the subsequent development resulting in from the issuance of the termination order dated 27.07.2026. The petitioner in the said petition specifically contended that the action of the respondents, commencing from the letter dated 10.04.2026 and culminating in the letter of termination dated 27.07.2026, constituted a single continuous cause of action which required to be assailed by institution of a fresh comprehensive suit. There was no indication in the said petition that the issuance of the letter dated 10.04.2026 and the letter of termination dated 27.07.2026 constituted two separate and distinct cause of action. The learned Trial Court in the impugned order has also not recorded any finding that the



letter dated 10.04.2024 and the letter of termination dated 27.07.2026 are factually unrelated to each other and that the letter of termination dated 27.07.2026 is not linked to the subject matter of the suit.

7. The legal position which emerges from Order 23 rule 1(3) CPC is that the Trial Court, while dealing with an application under the aforesaid provision of law, has to either allow it as a whole or dismiss it. There cannot be approval in part whereby the suit is allowed to be withdrawn, but liberty to file a fresh suit is denied. Where the plaintiff desires to withdraw the entire suit with liberty to file afresh on the ground of subsequent developments affecting the whole cause of action, the court cannot convert that into withdrawal of entire suit with liberty only for one part of the cause of action. Partial or conditional grants are generally not permissible in absence of jurisdiction to split, sever or partially allow a unified prayer. It is only where the plaintiff comes up with a specific prayer for withdrawal of the suit with liberty to file afresh in respect of one part of the cause of action, the court may consider it in accordance with law. The application filed under Order 23 rule 1(3) constitutes an indivisible whole, it must be accepted in toto or rejected entirely.

8. In the present case, there is no dispute that the filing of the Petition No.18 of 2026 by the petitioner seeking withdrawal of the title suit along with the connected miscellaneous applications was necessitated due to the issuance of the letter of termination dated 27.07.2026 as the petitioner was keen to assail the entire action of the respondents right from the date of issue of the letter dated 10.04.2026 by filing a comprehensive suit. The respondents also did not raise any objection against the prayer made in the said petition. In such a situation, the learned Trial Court ought not have taken up the task of dividing the claim of the petitioner of its own in absence of any specific conferment of jurisdiction to split.

9. The record further reveals that the Title Suit No.14 (H) 2026 was at



nascent stage when the Petition No.18 of 2026 was taken up by the learned Trial Court for consideration. There was no written statement, framing of issues or any adjudication on merits of the matter by the Trial Court. Hence, the finding of the Trial Court in the impugned order that the cause of action in the title suit was completely overtaken and rendered infructuous by the subsequent substantial termination of service of the petitioner was unwarranted and also not based on any admitted materials on record.

10. In view of what has been discussed above, the impugned order dated 25.08.2026 passed by the learned Assistant District Judge, Shillong requires interference by this Court. Accordingly, the direction contained in paragraph 25 of the impugned order is hereby set aside.

11. Resultantly, the petitioner's prayer for withdrawal of the Title Suit No. 14(H) of 2026 along with connected miscellaneous cases is allowed with liberty to institute a fresh comprehensive suit challenging the entirety of the action of the respondents.

12. The revision petition stands allowed.

Judge

Meghalaya
28.09.2026
"Abhinandan,PS"