

AJAY DABRA

v.

PYARE RAM & ORS.

(Civil Appeal No. 716 of 2023)

SLP(C) No. 15848/2019 ga loinana.

Tarik 17.12.2018 da Shimla da famba High Court of Himachal Pradesh na CMPM No.76 of 2018 da pikhiba wayeldagi lakpa appealni .

Wayel piba numit: JANUARY 31, 2023

[PAMIDIGHANTAM SRI NARASIMHA AMASUNG SUDHANSHU DHULIA, JJ.]

Limitation Act, 1963: Section 5 – Appeal thabada thengba – Ayaba piduna thengna thaba hahanba – Wayel asumna pikhi: Appeal adu law na piriba matamdugi manungda thagadabani – Thengthana tharakpa appeal adu thengthana tharibadugi maram adu wayelshangda mayek sengna utkadabani – Houjikki case asida appeal thengna thabagi maram mayek sengna piba ngamde - Appellant na appeal thabada numit 254 thengbagi maramdu court fee suna thiba ngabagini hai – Appellant asi enakkhunba lalonba amsung hotel chalaiba meei oibana mahakna piriba maram adu appeal thengna tharibadu kokpinabagi maram oiba yaroi – Matamduda mahak selgi awaba mayoknadu court fee loinamak thiba ngamdrabasuh mahakna asoiba yaoraba appeal, haibadi appeal ama thabada court fee suna pidaba adubu wayelshangduna piba matamgi maungda awatpadu piba, ama thabadi kanamatana thingba leite – Court fees Act ki section 4 na High Court ta court fee watna appeal thaba yaroi haijarabasu, CPC gi section 149 gi matunginna wayelshangna awatpa court fee adu matam khara leiraga piba yahalli, masi Court Fees Act ki section 4 gi khandokpa amani haina loubu yai – Maram asina appellant na appeal thabada thengkhinabagi piriba maramsing aduna thengkhinabadi kokpinabagi maram chaba oiba yaroi, lawgi niyamda mahakna court fee watlabasu appeal thaba yai – Maram asina mahakki section 5 ki makhada tharakkhinaba appeal adu High Court na kakhinabadi chummi. Wayelshang asina khutthinginaba maram leite- Court Fees Act,1870.

Himachal Pradesh Tenancy and Land Reforms Act, 1972:section 118 – Loumi nattaba meei lam yonba – 1972 Act ki section 118 ki matung inna Himachal Pradesh ta leiba lam ama mafam aduda lou uduna leiba loumikhaktada yonba, piba, sandokpa yai – louminattabada yonba matamda state leingakki ayaba hanna loubu tai – 1972 Act ki section 118 na lam yamna leijadaba loumisingbu ngakpi senbinabagi pandam thamli – Madu lairaba lam yamna leijadaba loumisingbu ngak-senbinaba amasung Himachal Pradesh ta paksanna chatharakliba loufamsingbu lou-ubaga mari leinaba thabaksinggidamak pithokkhinaba thingnabani.

Bhagabati Prasad Padhy, Rahul Sharma -- Appellant ki ukilsing.

Ajay Marwah, Adhitya Srinivasan, Karan Thakur, Tapan Masta,
Ayush Gupta, Ms. Achintya Dvivedi, Rameshwar Prasad Goyal—Respondentsinggi ukilsing.

Wayel asi Justice SUDHANSHU DHULIA na pikhibani.

Appeal thabagi ayaba pire.

2. Wayelshang asida tharakliba appeal anisi akaknaba thabak pangthok-hannaba tharuba suit adubu kakthatpikhraba amasung mahakna amuk High Court ta thajakhinaba ahanba appeal adusu matam

hendoklaga tharakpani haiduna kakapikharaba plaintiff oikhiba meei aduna tharakpani. Matang asida eikhoina panba yabadi plaintiff/appellant asi akaknaba thabak pangthokhannaba hotnakhiba yanache aduda yaoba meei natte. Yanache adu case mayoknakhiba defendant amasung Himachal Pradesh ta leiba loupamsing yonnabagi semba company M/s Himalayan Ski Village Pvt. Ltd. anigi marakta enakhiani. Tonganba lam ani leiba-yonbaga yanache ani enakhi amasung maduna maram oiraga lamga mari leinaba civil suit ani thakhiani.

3. Mathakta pankhriba appeal anisiga mari leinana Himachal Pradesh High Court ki judge amakhakna CMP (M) No.75/2018 & CMP (M) No.76/2018 da takhiba wayel adubu punna singnari. Singnariba wayel aduna Limitation Act, 1963 gi section 5 ki makhada case thabagi matam thengkhikadu kokpinaba thakhiba darkashsingdu numit 254 thengkhikagi kokpinaba pirakliba maramsingdu matam thengkhikagi kokpinaba pirakpaga maram chade haiduna kakthakhiani. Houjikki appellant asina hanna akaknaba thabak pangthok-hannaba thakhiba kumja 2012 gi suit No.28 amasung No. 29 anidu District Judge, Kullu na tarik 30.12.2016 da pikhiba wayel amana kakthakhiani.

4. Appellant na hairibana case thabada thengkhiba matamdu kokpiba chummi amasung mahakki appeal adu meritta khannabiramgadabani haibasini.

5. Eikhoigi enakta leiriba case asi taseng tasengba civil case ni. Appeal ama thabasi law na piriba matamgi manungda thagadabani. Thengna tharakpa appeal du wayelshang aduda thengkhikadu kokpinabagi haijarakpadu maram charabadi kokpiba yai. Thengkhiba matamdu kokpa pamliba appellant aduna thengkhiba numit amamamgi maram sengdokkadabani. Masimasu chummi madudi, matam thengkhikadu kokpinaba haijarakpa matamda wayelshangnasu marai haigatlaga madu khannaba chumde amasung thengkhiba numitsinggi maram piraklibadu wahei khudinnggi wahandok piduna yengloidabani, maramchana sengdorakpara haibadu yenggadabani. Houjik thengnariba case asida asigumba thengkhikabi wayelshangbu pelhanba yaba maongda sengdokpa ngamdre. Ahanba appeal thabada numit 254 thengkhikagi amata ngaiba maramdi court fee thinabagi sel leite haibasini! Enakkhunba karbartouba amasung hotl chalaiba meei amana piriba case thabada thengkhikagi maram asi thengkhikadu kokpinabagi maram chade. Case amahektada, karigumba matam aduda appellant adu na sel leitabana matam chana case thahoude haijarabasu, court fee sudana tharakpa appeal adu law gi matung inna asoiba appeal amani haina louraga wayelshangduna haiba apiba matamgi manungda court fee suna pirabadi, appeal thabadu athingba leite. Matang asida eikhoina Civil Procedure Code, 1908 ki section 149 da piribadu panba yai: "Section 149. Court fees watpa menkhatpaga shakti.- Chatnariba law amagi matunginna che amagi pifam thokpa court feedu suna pidaba matamda, wayelshang adugi achum-chumda leppaga shakti sijinnaraga tanja amada meei adubu court fee loinamak natraga awatpadu pihanbaga ayaba piba yai amasung madu pithoklabadi che aduga mari leinana court fee adu hanna pibaga chap mannagani." Matang asida panba yabadi wayelshang asina amasung High Court kayanasu CPC gi section 149 asi khandokpa ama natraga Court Fees Act, 1870 gi section 4 gi toudaba yadaba saruk amani haina wayel pikhrabani. Section 4 gi matung innadi pifam thokpa court fee hairamlabadi madu pidrabadi High Court ta appeal thaba yade. Adubu wafam asi mathakta pankhriba CPC gi section 149 ga punna pamminnagadabani. CPC da section 149 karamna hapchillakkhikage haibadu yengladi masi mayek sengna khanggani.

6. Court Fees Act ki section 4 si yamna minungshi leitaba niyam oina lounarakpana maram oiduna 1892 da ariba Code of Civil Procedure, 1882 bu semdoknaknaba section 522-A hapchillakhi makhagi asumna: "wayel amagi mayokta tharakpa appeal natraga revision gi darkash ama apiba matamgi manungda tharabasu stamp suna napte haina eraklabadi amasung madu waktakliba meei aduna khanghoubadagi oirabadi madu court fee suna pire haina loubaga yai amadi court fee suna thiraba che

amaga chap managani, toubadabu wayelshang aduna pikhiba matamdugi manungda awatpa court fee du thidrabadi wayelshang aduna appeal natraga darkash adu kakthatkani.”

7. Mathakta pankhriba niyam asi wahei khara semdoklaga CPC, 1908 ki houjikki section 149 oina yaohallakhibani. Mannan Lal v. Mst. Chhotaka Bibi & Ors, (1970) 1 SCC 769, hairiba case asida CPC gi section 149 amasung Court Fees Act ki section 4 neinabada eikhoina mathakta pankhriba adugumna wayelshang asina niyam adu semdokkhibagi puwari palladuna wayel adugi para 12 amasung 13 da makhagi asumna haikhi madudi: “12. Mathakki section asina matou asumna Court Fees Act ki section 4 na oihallamba minungsi yaodabaa niyam adudei kokhanbire amasung wayelshangna mahakki achumchumda lepchabagi shakti adu sijinnaraga court fee watna tharakpa appeal adu court fee wattle khangba numittagi loudana appeal adu hek tharakpa numittagi chumna tharakle haina loubana ngammi. 13. Ahanbada court fee sudana tharakpa adubu konna awatpa court feedu suna pirabadi appeal adu thahanba yai natraga yede haibagi matangda kupna neinaraba matungda eikhoigi oiba warepti Court Fees Act amasung Code of Civil Procedure animakta piriba niyamsing adu khal mannana yengduna punna amata oina pagadabani, law aduda mayek sengna amana atoppadudagi namhattauna chatnagani hairamdrabadi amana amadagi henna lumna loudana chatnahannaba touroidabani.”

8. Mamangda pankhriba case Mannan Lal da wayelshang asina CPC gi section 149 amadi Court Fees Act ki section 4 animakka mari leinana wahanthok piba tongan tonganba High Court kharagi wayel kharasu neinakhi. Maruoina Allahabad High Court na S. Wajid Ali v. Mt. Isar Bano Urf Isar Fatima & Ors., AIR 1951 All 64 haiba case aduda pikhiba wayel haibadi che ama court fee watna tharakpadu suna pihannaba wayelshang aduna masagi oiba shakti sijinnagadabani aduga madu ayaba piduna awatpa feedu pirabadi che adu ahanba tharakpa numittagi khannaba yaraba oina lougadabani, awatpa fee piraktuna asoibadu chumthokpa numittagi louroidabani. Madugi matunginna wayelshang asina mathakta pankhriba Mannan Lal gi caseta makha tana asumna fongdokkhi: “21. Wayel aduda sijinnakhiba waheising adu pak chaona konsinba yai haibasida chingnaningai oidre. Adubu madu wayelshang asida tharakpa appeal oiba tarabadi appeal ama thaba matamda memorandumgi maongda oina tharakkadani haibadu ngakna tharaklabadi madu CPC gi Order 41 Rule 1 gi matunginna appeal adu tharakle haina loubada khudongchadaba leite. Court fee watna pirabasu appeal amagi memorandum adu wayelshang aduna loudaba ngamlabasu appeal adugi memorandum oina adum lougani. Karigumba awatpa court fee adu wayelshang adugi ayabagi matunginna pithoklabadi asoiba leikhiba adu appeal tharakpa ahoubana numittagi asoiba leitre haina lougani, awatpa court fee piba numittudagi asoiba leitabani haina louroi. 22. Mathakta haikhriba maramsing asigi matunginna eikhoina High Court na pikhiba wayel adu yaba ngamde. Appeal toukhiiba mapung oiba wayel adugi yumfam oiriba maram asi appeal thabagi memorandum adu 1962 gi November 12 ki matungdakhak asoiba adu chumthokkhi haina loubana U.P. Act ki section 3(2) ki kanaba fangdre haibasini. Allahabad High Courtki Khang heiraba judge makokna asumna fongdokkhi madudi matam thengna tharakpa appeal amaga court fee watna tharakpa amaga khetnei. Mahakki matunginna Limitation Act ki section 3(2) ki matunginna appeal adudi kakle adubu memorandum adudi kakte haina fongdokkhi. Maram asina court fee watna tharakpa matamda appealgi memoandunga mari leinariba Court Fees Actki section 4 ga matam thengna thabaga mari leinaba lawgi niyamsing aduga chap mannaba fivam oina loubana yaroi. Adubu ekaikhumnaba maong utlabasu mahakna piriba maram adu eikhoina yaba ngamde. Mamangdasu pankhre madudi, Code of Civil Procedure da appeal hairiba wahei asigi chap chaba wahanthok pidrabasu, madu tharakpa haibasi appeal amagi memorandum adu pikhatlakpa aduna oigadabani. Maram asina memorandum ama pisillakpada appeal adu tharakle haina lougani; karigumba madu court fee watna tharaklabadi kakthatpa yai amasung kakthatlabadi appeal adu leitre. Touigumbasung, madu kakpaga mahutta appeal tharakliba meeoiduda matam pibiduna awatpadu mensinnaba hairabadi section 149 na piriba khudongchaba adu fanggani haibadi che adu thaba houkhiba numittudagi ayaba fanglaba cheni. Section 149 gi matuinna loubana yai

haiba machattuna court fee watna thibagi asoiba leiruraba che adu hanggatna ayaba pibana maram oiraga madu stamp reporter amana court fee wattle haiba numittudagi tharaga leiba appealdugi memorandum oina loughani.” Hairiba wayel as wayelshang asigi konna loukhatkhiba khiba case kayada haibadi P.K. Palanisamy v. N. Arumugham & Anr. (2009) 9 SCC 173, Ganapathy Hegde v. Krishnakudva & Anr. 5 (2005) 13 SCC 539 amasung K.C. Skaria v. Govt. of State of Kerala & Anr., (2006) 2 SCC 285, nachingbasidasu chap manana wayel pikhrabani.

9. Eikhoigi mangda houjik leiriba case asi court fee leiba ngamjadaba appellant amagi case natte. Mahakna court fee adu thengthana pikhi. Adu oirabasu, mathakta pankhriba lawna piriba niyamgi matung inna court fee watlabasu appeal adu matam chana thahou ba yarambadu matam chana thahoudabana maram oiraga appeal thengna tharakpigi pirakliba maram asi niyamgi matunginna thengkhitudu kokpiba yaba achumba maramdi oide. Maram asina, leiriba machaksing amsung fivamsing asida appellant asina sel matik chana leitabana maram oiduna appeal adu thengna thakhiba haijaraduna section 5 ki makhada tharakkhiba wakatche adu High Court na kakkhibadu chummi. Karigumba mahakna CPC gi section 149 ki matung inna appeal adu tharamlaba amasung awatpa court fee adu konna piduna asoibadu chumthoklamlabadi tonganba fivam ama oirabasu yai. Madu toukhide haiba mayek sengna uba ngammi.

10. Limitation Act ki section 5 pu sandokna takladuna wayelshang asina Mahant Bikram Dass Chela versus Financial Commissioner, Revenue, Punjab, Chandigarh And Others, (1977) 4 SCC 69 haiba case aduda makhagi asumna wayel pikhi: “21. Limitation Act ki section 5 asi yamna lumba thabak toubu mapu amain amasung wayelshangsingna madu yamna piksinna wahandok pi. Section 5 ka mari leinana masing yamlaba wayel leire madugi maruoibasing haibarabada meei amana matam houhankhibana fanghanba atoppa meei amagi hak adu erai laina manghanba yaro amadi maram asina cheksindaba meei amna karigi numit thengna wakatlibano haibadugi maram numitsingdugi oina amamamta paokhum pigadabani. Aduba matam chana thaba asoibadi leiba appeal oirabadi section 5 ki mateng fanggadabasu houjikki case asidadi oide. Mangda leiriba case asi Limitation act ki section 5 natraga High Court ki Rules ki Chapter I gi Rule 4 amahekta sijinaba yaba haibadu oidre. High Court ki division bench na Chapter 2-C asi indrabasu yabani haibadu khanglamlabadi, makhoia appeal adu matam chana tharakpani haina loubiramba yai, maduna thengna tharakpadu ayaba pigadra piroidra haibadu khangnabagi khudongchabadi fangloi. Wayelshang asina Basawaraj and Another versus Special Land Acquisition Officer, (2013) 14 SCC 81, haiba case aduda maram chadana thengna tharakpa wakatche ama kakthatladuna asumna wayel adugi para 15da haikhi madudi: “15. Wayelshang amada apiba matamdei thengthana wakatche tharakpigi matng da lawgi oiba niyamsing adugi supchinba wafam haiba tarabadi wakatlib ameeoi aduna wayelshang aduda mahakna thengna wakatche tharakpigi maram chabadu utkadabani haibadi mahakna matam chana wakatche thaba ngamdabagi achumba amasung tangaifadaba maramsingna ayetpa oiduna mahakna matam chana wakatche thajaba ngamkhibabani. Karigumba meei amana thaoidaba natraga leiba fivam amasung machaksing aduga mari leinana magi toufam thokpadu toujadaba natraga cheksindaba oirabadi, thengkhida matamdu kokpiba haibadu achumba natte. Adugumba maram chadana thengkhida adu karigumba khara touhallaga wayelshang amatana kokpiba chumde. Wayelshang asina thengna tharakpa matamda kokpiba yabagi pikhiba maramsing amadi fivamsing adu wayelshang ateina adugumba wakatche tharakpa matamda munna yenglaga warep loughadabani. Achumba maram chaba yaodana meei amana wakatche thajabada ayetpa leitaba matamda maram chadana natraga toufam thokpa khara yaohandana thengkhitudu kokpirabadi madu lawna piriba niyamsinggi wangmadani amasung madu eduna leiriba chatnariba law bu thaoidabani.” Maram asina, High Court na houjikki appellant asina tharakkhiba thengkhida matamdu kokpinaba tharakliba wakatchedu kakkhibaduda asoiba amata leite haina wayelshang asina wayel pire.

11. Masigi mathakta, case asigi achm chumdagi maramda yenglbasu eikhoina khut thingjinnaba maram leiba case oide. Case asigi mari leinaba wafamdi, M/s. Himalayan Ski Village Pvt. Ltd. na Himachal Pradesh ki lam mapu/loumi amaga mahakki loufam ama leiba yonbagi yannache ama enakhi. Matang asida yetba leitaba wafamdi Himachal Pradesh Tenancy and Land Reforms Act, 1972 (asambida '1972 Act')ki section 118 ki matung inna Himachal Pradeh ta loufam ama leiba yaba meei adu 1972 Act asigi section 2(2) gi matung inna loumi ama oigadabani, haibadi meei adu masamakna lamdam aduda lofam amagi mapu oiduna lou ujariba meei ama oigadabani. Kanagumba loumi nattaba meei amana loufam ama liege hairabadi madu Act asigi section 118 ki matung inna state leingakki ayaba hanna lougadabani.

M/s. Himalayan Ski Village hairibasidi lanai companyamani amasung loumi haibadu natte amasung maram asina Himachal Pradesh ta loufam leiba ngamde amsung loufam adugi leiba yonbagi yannache adugi tangaifada wafam amadi loufam adu leiba yabagi tangaifadaba ayaba adu state leingaktagi apiba matangi manungda lougadabani. Houjik yetnaba leitaba wafamdi ahanba case mayoknakhiba defendant aduna state leingaktei ayaba fangkhida amadi mahakna matungda wakatlaba meeiouda ayaba piraga akaknaba thabak pangthoknaba suit ama thahankhibani. Himachal Pradesh Tenancy and Land Reforms Act, 1972 gi section 118 ta makhagi asumna hairi: "1[118. Loumi nattaba meeiouda loufam pithokpa athingba thamle:- (1) Chatnariba Law, yanache, mamngeidagi leiraklaba chatnabi singda yaojarabasu pandup asida yaoriba niyam asigi matunginna nattana leiba yonbagi yanache enaduna, lemna pithokpa, sidringeida eduna thanamba apamba che, pot onthoknaba yanaba, lam sandokpa, lam sijinnaba yahanba bandhop thamba, bharada leihanba yahanba maong khudingmak (wayelshangna piba wayelgi matunginna lamgi khajana loukhatnaba lam adu meei amda sinnaba yaona) lam ama loumi nattaba meeiouda pithokpa khudingmak chatnararoi]. 2[Sandokna haiba. Sub-section asida hairiba wahei "lam pithokpa" haibasigi manungda makhagsing aside yaoroi i. Mapa mapuna thamlamba lam fanghouba, ii. Macha masusingda mamamapana natraga sidringeida apamba eramba chedu sinnaramaba meeiosingna pijaba, iii. Municipality na konba mafamsingda leiba lam natraga yum bharada sandokpa, adubu madugi manungda yaoroidabasingdudi a) loumi nattaba meeiouda mamal piraga loumi amagi mingda lam louhanba, amasung b) akhannaba shakti natraga makhal sunna yaoba shakti sinnaba che eduna loumi nattaba meei amada asengba lamgi mapu amgumna lam adu mahakna sijinnanangba maongda sijinnanaba ayaba pithokpa] (2) Adubu sub-section(1) na lam mapu amana makhagi pithokpasing asi dadi athingba thammi haina louroi

(a).....

(b).....

(c).....

(d).....

(e).....

(f).....

(g)....

(h) state leingakna akaknaba thabak touhannaba ayaba piraba loumi nattaba meeiouda piba."

12. M/s Himalayan Ski Village Pvt. Ltd. na state leingaktagi 1971 Act ki section 118 ki matunginna ayaba fangkhida haibasi kakpa yadraba achumba oire.

13. Madugi mahutta toukhiba thabakti lam leiruriba meeiouda 1972 Act ki section 118 ki matunginna state leingakki ayaba fangba ngamdabadagi ahanba wakatkhiba plaintiff (wayelshang asida houjik appellant oiriba meei) aduda hak khudingmak sinnakhi amasung mahakna akaknaba thabak pangthoknaba suit ama defendants haibadi Defendant No. 1 oiriba houjikna respondent No. 1 Surrender Singh gi mayokta tharakkhibani. Aduga konna defendant No. 2 oikhiba mafamsida respondent No. 2 oiriba M/s Himalayan Ski Village Pvt. Ltd. case asida yaohallakkhibani.

14. Plaintiff na tharakhiba suit adu maru oiba tangaifadana pangthokkadaba thabak haibadi 1972 Actki section 118 ki matung inna state leingaktagi ayaba lougadabadu fangdaba aduda yumfam oiraga ahanba wayelshangna kakthatkhibani amasung aduguma fivam amadi machaksing aduda plaintiff ta hak pumba sinnakhibadu chumde amasung chatnaba yaroi.

15. Leiba yonbagi yanache aduda yaoriba atei fivam amadi tougadabasing adu yamna maru oiriba tangaifabada machak haibadi 1972 act ki section 118 ki matung inna state leingaktei lougadaba ayaba adugi makha ponli. Karigumba lamleiriba meei aduna state leingaktagi ayaba fangdrabadi mahakna mahakki hak khudingmak Himachal Pradesh ta leiba loumi amada sinnaba yai haiba wafam amsung aduguma sinnariba meei aduna lam yonbagi yanache adu thabak onthoknaba hotnarakpada yolliiba meei aduna ayetpa amata leiroy haiba wafam amata leiba yonbagi yanache aduda yaode.

16. Houjikki case asida lam yolliiba meeoigi ayaba yaodabana maram oiraga meei amda lam leiriba meeiidugi hak pumba sinnakhiba adu chatnaba yade. Adugumba ayaba adu yaodabana amasung plaintiff/appellant ta sinnariba hak adu lam yolliiba meeiidudagi hanna ayaba loukhidabana plaintiffki maikaida akaknaba thabak am apangthoknaba wayel ama pibagi maram leite. Makhatarakpa oina, case asida eikhoina khut thingjinnabagi maram leite.

17. Eikhoina masimasu hainingi madudi 1972 Act ki section 118 ki mapung oiba pandamdi lam chaona leijadaba lousingbu ngak senbinabani. Himachal Pradesh ta leiriba lam asi loumi nattaba meeiida pithokpa yade amasung masi pandam amagi matung innani. Masigi pandamdi lam yamna leijadaba lousingbu ngakpi senbinabani amasung loufamsingbu paksanna lou-unaba nattaba atei thabakki onthokpadu thingnabani. Loumi nattaba meei amana Himachal Pradesh ta lam leininglabadi state leingaktagi hanna ayaba lougadabani. State leingakna matam matamgi lakliba lam leiba yonbadu munna khallaga ayaba piba yai natraga yade haibadu lepkadabani. Houjikki case asida chummi haina loubadagi leingakna ayaba pikhidre. Adubu madu, lou-ubaga mari leinadaba thabakta sijinagadaba oibana ayabadu pikhidabani. Lam adugi hak pumnamak loumi amada sinnarabasu madu lou-ubaga mari leinadaba thabakta sijinnagadaba oibana Act law adugi pandam adu fanghanlaroi. Himachal Pradesh High Court nasu Ashok Madan and Another versus State of H.P. and Other, 2011 SCC OnLine HP 3885, haiba case aduda 1972 Act ki section 118 ka mari leinana makhagi maruoiba wayel asi pikhi: “12. Che amagi mamingkhakna che aduna piriba haksing adu lepkadaba natte haibasi law oina leirabani. Yanache adu sembada yaoriba meeiising aduna karamna chedu semkhibano amsung che aduga mari leinana meeiising aduna karamba maongda thabak toukhibage haibadu punna yenglaga makhoigi wakhal adu khangdokkadabani. Section 118 asi maduna ayaba pibakhak nattana lou-unabaga mari leinadaba maragidamak lam pithokpada athingba thamnaba hapchillakpani. Masigi pandamdi enakkeirak khunba loumi nattaba meeiisingna lam yamna leijada lousingdagi maram chadana khudongchaba louduna lam leiba thingnabani. Niyam asi enak khunba louninattabasingna Himachalgi asengba meeiisingdagi mamal kahenna pisinduna Himachal Pradesh ta leiriba lofamsing leisinbagi thabak tourakpadagi hapchinkhibani. Adum oinamak, akhannaba fivamda law asigi section asimakna louninattaba meeiidasu lam leiba yahalli. Hairiba section as sangbidhanna yaba niyamni haiduna Himachal Pradesh High court na Smt. Sudarshana Devi v. Union of India, ILR 1978 HP 355 haiba case asidawayel pikhibani.

18. Mathakta pankhiba machak amasung fivamsing asida eikhoina hiram asida khut thingjina mathou tade haina loure. Masimakna maram oiraga appeal animak kakthatle.