

**IN THE COURT OF THE SENIOR CIVIL JUDGE, AIZAWL DISTRICT,
AIZAWL MIZORAM**

CMA No.62/2012 Arising out of Civil Suit No.20/2012

The Chairman,
The Salvation Army, Melriat,
Aizawl District, Mizoram.

.....Plaintiff.

-Versus-

1. The Secretary to the Govt. of Mizoram,
Revenue Department, Aizawl.
2. The Director,
Revenue Department,
Govt. of Mizoram, Aizawl.
3. The Asst. Settlement Officer – I
Revenue Department,
Govt. of Mizoram, Aizawl.
4. Rochhingpuia,
Mel-8, Aizawl District, Mizoram.
5. The Project Director,
Office of the Chief Engineer(Highways)
PWD, Mizoram, Aizawl.

.....Defendant.

BEFORE

R.VANLALENA, Senior Civil Judge-2

For the Plaintiff : Shri L.H.Lianhrima & Ors, Advocates.
For the Defendants: Shri C.Lalramzauva & ors, Advocates.
Date of Judgement: 30.4.2012.

JUDGEMENT AND ORDER

19.4.2012

Parties are present through respective Id. Counsels.

Today is fixed for hearing on the application filed by the petitioner-plaintiff for grant of temporary injunction.

Ld. Counsel Shri L.H.Lianhrima submitted on behalf of the applicant that present applicant/plaintiff is a Salvation Army having its branch/Corps/church at Mel-8, Aizawl. The concerned authority allotted Pass No.DLL (Misc) 124 of 2005 to the applicant with an area of 238.72 Sg.m at Mel-8, for construction of church building. Long before the said church (Salvation Army Corps) was allotted the said pass, the PWD, Mizoram had its office building already constructed on the same plot of land and the said church, after obtaining the said land Pass started utilizing the said building with the consent of PWD for conducting church service with effect from 7th October, 2006 without break till date. However, as the said plot of land had of late been claimed by defendant No.4 namely Shri Rochhingpuia stating he has a Garden Pass No.77 of 1956, the on going utilization of the said building

for conducting church service met disruption when the defendant/OP No.4 illegally took out church properties and informed the petitioner church to stop using the suit land for church service. Amids the disruption, the defendant No.2 i.e. Director, LR & S Deptt. Passed and issued a Settlement Order dated 30.8.2011 vide Memo No.C.13016/A-7/08-DISP/DTE(Rev)/32 as if the matter has been amicably settled between the plaintiff and defendants NO.4 which in fact was against the consent of the plaintiff. Being aggrieved and totally dissatisfied with the illegal actions of the defendant No.4 and the said Settlement order, the applicant/plaintiff approached this court for redressal of their grievances and thus applied for an order/direction or temporary injunction to stay the operation of the Settlement Order dated 30.8.11 and to restrain the OP NO.4 from developing and occupying the suit land till disposal of the instant suit.

The Id. Counsel added that before the applicant church was allotted a plot of land for its church building, all codal formalities had been fully complied with by the competent authorities. The defendant No.4 had never claimed the such land prior to issuance of the Pass DLL No.124 of 2005 to the church till the month of October 2008. However, in the month of October 2008, the defendant No.4 started claiming the land by constructing pig house and fixing pillar in the middle of the suit land wrongfully without the consent and knowledge of the applicant. The said illegally constructed pig house etc. were thus order to be removed by the ASO-I, Aizawl District vide his order dated 9th Feb,2010. AS the suit land legally belonged to the present applicant, the defendant No.4 may be directed and injuncted from developing the suit land untill disposal of the suit and Id. Counsel further pray to allow the applicant church to continue the conduct of church service in the said building.

On the other hand, Id. Senior counsel Shri C.Lalramzauva submitted on behalf of defendant/OP no.4 that the petitioner/applicant church cannot made any valid claim over the suit land on the strength of the Pass DLL No.124 of 2005 as the same had been issued by the Revenue Department over a land covered by Garden Pass No.77 of 1956 which means that Pass DLL No.124 of 1956 has no legality as it encroached upon the land of defendant No.4 Ld.Senior Counsel added that the petitioner had been in illegal occupation of the suit land for quite some time since the year 2006 till 16.01.2012. The petitioner left and vacated the building/suit land on 16.01.2012 and since then the petitioner conducted church service in the house of Shri Lalmakthanga at Mel-8 till date. Hence the statement of the petitioner that “the petitioner had been using the said building constructed by PWD for conducting church service with effect from 07.10.2006 without any break till date” is misleading and false statement. Thus, the application for temporary injunction is liable to be rejected. Ld.Sr.Counsel added that there would be no irreparable loss or injury to the petitioner even if interim injunction not granted because the building in which the church services are being conducted belonged to the PWD and neither the petitioner nor the defendant No.4. He further stated that as the petitioner has no valid title over the suit land, there is no question of granting an injunction in favour of the petitioner, and thus the application for the same may be rejected outright.

I have heard Id. Counsels from both sides. I have also considered their respective submissions. I have also perused materials available on record.

This court, after careful consideration of the matter before it, has arrived at a decision to discharge/vacate the ad-interim injunction already granted to the petitioner against the OP no.4 on the ground that after hearing both parties, it has come to the notice of this court that the object/necessity of granting an injunction in the instant case had been defeated by the fact that the petitioner had already left the building and the suit land since 16.01.2012 and had been in utilizing the house of Shri Lalmakthanga Mel-8 for conducting church service. Granting an injunction at this stage would mean re-allocation of the petitioner to the place which the petitioner had left already. Hence, this court finds no reason to grant an interim injunction at this stage.

With this order, the instant application is disposed of.

Sd/-R.VANLALENA
Senior Civil Judge – II
Aizawl District : Aizawl.

Memo No. /SCJ-I I(A)/2012: Dated Aizawl the 30th April,2012.
Copy to:

1. The District and Sessions Judge, Aizawl District for information.
2. The Chairman, The Salvation Army, Melriat, Aizawl District, Mizoram through counsel Shri L.H.Lianhrima.
3. The Secretary to the Govt. of Mizoram, Revenue Department Aizawl through Asst. Govt. Advocates.
4. The Director, Revenue Department, Govt. of Mizoram, Aizawl through Asst. Govt. Advocates.
5. The Asst. Settlement Officer – I, Revenue Department, Govt. of Mizoram, Aizawl through Asst. Govt. Advocates.
6. Rochhingpuia, Mel-8, Aizawl District, Mizoram through counsel Shri C.Lalramzauva & ors.
7. The Project Director, Office of the Chief Engineer(Highways) PWD, Mizoram, Aizawl through Asst. Govt. Advocates.
8. Registry Section.
9. Case record.

PESHKAR

