

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

Declaratory Suit No.16/2010

1. Varneihthangi,
D/o V.Roshiana (L)
H.No.2D/001, Kulikawn,
Aizawl – 796005.

2. Varneihtluangi,
D/o V.Roshiana (L)
H.No.2/28, Kulikawn,
Aizawl

.....Plaintiff.

-Versus-

1. Varneihchhunga,
S/ V.Roshiana
Kulikawn, Aizawl.

2. Liantluangpuü,
W/o Varneihchhunga,
Kulikawn, Aizawl.

3. ZIDCO,
Through Managing Director,
Tuikual, Aizawl.

4. The State of Mizoram,
Through the Chief Secretary to the
Govt. of Mizoram, Aizawl.

5. The Secretary to the Govt. of Mizoram,
Land Revenue & Settlement Department,
Aizawl.

6. The Director,
Land Revenue & Settlement Department,
Govt. of Mizoram,
Aizawl.

7. The ASO-II,
Land Revenue & Settlement Department,
Govt. of Mizoram,
Aizawl.

.....Defendant.

BEFORE

R.VANLALENA, Senior Civil Judge-II

For the Plaintiff : W.Sam Joseph & ors, Advocates.

For the Defendants: B.Lalramenga & ors, Advocates for Def.No.1-2.
A.Rinliana Malhotra, Advocates for Def.3.
R.K.Malsawmkima and Joseph Lalfakawma,
Asst.Govt. Advocates for Def.No.4-7

Date of Judgement: 17.4.2012

JUDGEMENT

Plaintiff is present through ld. Counsel Shri W.Sam Joseph and Shri Hranghmingthanga Ralte.

Defendants No.1&2 are present through ld. Counsel Shri B.Lalramenga. Defendant No.3&4(ZIDCO) are present through ld. Counsel Shri A.Rinliana Malhotra. Defendants No.5-8 are present through ld. Counsels Shri R.K.Malsawmkima and Shri Joseph Lalfakawma, Asst. Govt. Advocates.

Today is fixed for hearing on the question of maintainability of the instant suit.

Ld. Counsel Shri W.Sam Joseph assisted by Shri Hranghmingthanga Ralte submitted that the instant suit may be maintained as the plaintiff has locus standi to file the instant suit because father of the plaintiff V.Roshiana while he was alive verbally stated to his sons that the land located at Sikulpuikawn be divided between his sons for their respective share. However, the defendant No.1 by way of forgery of the signature of his father effected mutation of the LSC No.151 of 1972 and the said LSC was mortgaged into the Zoram Industrial Development Corporation (ZIDCO) for obtaining loan. The said mortgage was illegal and against the interest of his client - the plaintiff. He therefore prayed to maintain the instant suit to declare that the mutation of the said LSC into the name of defendant no.1 was illegal. He added that since the mortgage of the said LSC encroached upon the interest, rights and title of the plaintiff over the said LSC, the suit may be maintained to declare that the mortgaged deed was null and void. He further stated that since the plaintiff is one of the sons of the deceased V.Roshiana, he has locus standi to file the instant suit for declaration of the transfer of the LSC No.AZL151 of 1972 and slicing out of a portion of land from it for making another LSC NO.104801/01/23 of 2002 as null and void and hence prayed this court to maintain the instant suit for the ends of justice.

On the other hand, ld. Counsels Shri A.Rinliana Malhotra for defendant No.3&4 (ZIDCO) and Shri B.Lalramenga ld. Counsel for defendants NO.1&2 (Mr.Varneihchhunga & ors.) submitted that the instant suit is liable to be dismissed on the grounds inter alia that the suit is barred by limitation as per Article 113 of the Limitation Act 1963 since the cause of action arose in the year 2002 but the plaintiff instituted the instant suit only in the year 2010 which is after the expiry of the limitation. As per the relevant provision of law of limitation, the instant suit must be instituted within three years from the time the cause of action arose. However, in this case, the plaintiff instituted the instant suit lately after more than seven year from the date the cause of action arose. They added that in the instant suit, the plaintiff combined different cause of action in a single suit which is not permissible according to the provision under order 2, Rule 4 of Code of Civil Procedure 1908, hence it is liable to be dismissed. They further submitted that the plaintiff has no locus standi to institute the instant suit as he has no title over the said land covered by LSC No.AZL 151 of 1972, hence the instant suit is liable to be dismissed in limine. His position as being one of the sons of Pu V.Roshiana (L) did not entitle him to institute the present suit unless and until he has a title over the suit land added the ld. Counsels.

I have also heard the ld. Asst. Govt. advocates Shri R.K.Malsawmkima and Shri Joseph Lalfakawma who both submitted the points raised by the ld. Counsels for defendants NO.1&2 and 3&4 stating that the suit is barred by limitation, against the provision of Rule 4 of Order 2, CPC 1908.

On hearing the rival arguments and on careful perusal of the materials available on record, with careful reading of the relevant provisions of law, this court has come to a conclusion to not maintain the instant suit on the grounds put forth by all counsels for all the defendants.

Accordingly, the instant suit is dismissed and disposed of.

Given under my hand and seal of this court on this 17th April, 2012.

Sd/-R.VANLALENA

Senior Civil Judge – II

Aizawl District : Aizawl.

Memo No. 15/SCJ-I I(A)/2012: Dated Aizawl the 17th April,2012.

Copy to:

1. The District & Sessions Judge, Aizawl District, Mizoram for information.
2. Varneihthangi, D/o V.Roshiana (L) H.No.2D/001, Kulikawn, Aizawl – 796005 through counsels W.Sam Joseph & ors.
3. Varneihthlangi, D/o V.Roshiana (L) H.No.2/28, Kulikawn, Aizawl through counsels W.Sam Joseph & ors.
4. Varneihchhunga, S/ V.Roshiana, Kulikawn, Aizawl through Counsel B.Lalramenga & ors.
5. Liantluangpuü, W/o Varneihchhunga, Kulikawn, Aizawl through counsel B.Lalramenga & ors.
6. ZIDCO, Through Managing Director, Tuikual, Aizawl through counsel A.Rinlian Malhotra.
7. The State of Mizoram, Through the Chief Secretary to the Govt. of Mizoram, Aizawl through Asst. Govt. Advocates.
8. The Secretary to the Govt. of Mizoram, Land Revenue & Settlement Department, Aizawl through Asst. Govt. Advocates.
9. The Director, Land Revenue & Settlement Department, Govt. of Mizoram, Aizawl through Asst. Govt. Advocates
10. The ASO-II, Land Revenue & Settlement Department, Govt. of Mizoram, Aizawl through Asst. Govt. Advocates.
11. Registry Section.
12. Case record.

PESHKAR

