

**IN THE COURT OF THE SENIOR CIVIL JUDGE, AIZAWL DISTRICT, AIZAWL
MIZORAM
Eviction Suit No.3/2010**

Remthanga,
S/o Rochhuana,
Zalen veng, Vairengte

.....Plaintiff.

-Versus-

1. The Chief Secretary,
Govt. of Mizoram,
Aizawl, Mizoram.
2. The Secretary,
Agriculture,
Government of Mizoram,
Aizawl, Mizoram.
3. The Director,
Government of Mizoram,
Aizawl, Mizoram.
4. The District Agriculture Extension Officer,
Kolas ib District,
Kolas ib, Mizoram.
5. F.Rithanga
S/o Aizika (L)
Chhim veng, Vairengte,
Kolas ib District, Mizoram.
6. Lalthanzuala,
S/o Luahtanga,
Chhim veng, Vairengte,
Kolas ib District, Mizoram.
7. Malsawmi,
Chhim veng, Vairengte,
Kolas ib District, Mizoram.
8. Lianmawia,
S/o China,
Chhim veng, Vairengte,
Kolas ib District, Mizoram.
9. Ruatmawia
Chhim veng, Vairengte,
Kolas ib District, Mizoram.
10. Rotinkhuma,
S/o Sangthanga,
Chhim veng, Vairengte,
Kolas ib District, Mizoram.

Agriculture,

- 11.Lunkhawliana,
S/o Khuma,
Chhim veng, Vairengte,
Kolasib District, Mizoram.
- 12.Thangliana,
S/o Laltea,
Chhim veng, Vairengte,
Kolasib District, Mizoram.
- 13.Lalmangaihuali (Zualtei)
D/o Thankhuma,
Chhim veng, Vairengte,
Kolasib District, Mizoram.Defendant.

BEFORE

R.VANLALENA, Senior Civil Judge-II

For the Plaintiff : C.Zoramchhana, Advocate.
For the Defendants: W.Sam Joseph & ors, Advocates and
R.K.Malsawmkima and Joseph Lalfakawma,
Asst.Govt. Advocates for Def.No.4-7
Date of Judgement: 19.4.2012

JUDGEMENT AND ORDER

The facts of the case leading to the filing of the instant suit as reflected in the plaint may be stated briefly as belows:-

The plaintiff Shri Remthanga S/o Rochhuma is a citizen of India belonging to Mizo community and is a resident of Zalen Veng, Vairengte village, Kolasib District, Mizoram. He has a land located at 47 KM south of the said village covered by Periodic Patta No.629 of 1981 along the NH-54. He has been regularly paying revenue taxes for the said land till date. The periodic patta No.629 of 1981 covered an area of 6(six) bighas in which the plaintiff planted permanent cash crops like batelnuts trees, bananas, etc.

However, in the year 2001 one Lianchhungi, mother of the present defendant No.13 encroached upon the plaintiff's land by constructing a building causing destruction to batelnuts and bananas. At the same time, defendant No.1-4 constructed illegally Rest House for Agriculture Department within the land of the plaintiff. Consequent upon this, the plaintiff approached concerned authorities for payment of adequate compensation for wrongly encroachment by the Agriculture Department but to no avail. The defendants other than defendants No.1-4, too encroached upon the plaintiffs land covered by P.Patta No.629 of 1981 by constructing houses within the said land without obtaining any Pass or Permit in the year 2000 and all the said defendants still continued their illegal occupation till date. In order to evict all the illegal construction, and occupants of the said land, the plaintiff had approached all the concerned authorities, but all in vain. The suit is valued at Rs.10,00,000/- and the plaintiff paid ad volorem court fee of Rs.5,000/- The suit is filed bonafide and for the ends of justice.

The plaintiff prays the following reliefs:-

- 1) A decree in his favour declaring he is the legal and rightful owner of the land covered by Periodic Patta No.629 of 1981 and he has title interest and possession of the said land.
- 2) A decree for eviction of the defendants from the suit land.
- 3) By way of permanent and mandatory injunction restraining the defendants from making interference within the said land and from dispossessing the plaintiff from the suit land and he be allowed to enjoy the peaceful possession of the land and further to restrain the defendants from doing any detrimental to the interest of the plaintiff.
- 4) The cost of the suit be decreed in favour of the plaintiff and against the defendants.
- 5) Any other reliefs to which the plaintiff is entitled according to Justice, Equity and good conscience.

The instant suit has been instituted on 15.01.2010. The court made the first order on 20.10.10 admitting the suit and directing the defendants to show cause as to why the prayer of the plaintiff shall not be granted and fixed 17.02.2010 for submission of written statement, if any. The court directed the copy of the order to be served to all concerned. Defendants No.1-4 were furnished photo copy of plaint on 17.05.2010 through the Id. Asst. Govt. Advocate. Defendants No.5-13 filed vakalatnama duly executed by them all in favour of Shri W.Sam Joseph & others Advocates on 17.05.2010. However, after lapsed of more than 5(five) months, all the defendants still failed to file their respective written statements in spite of duly noticed to them. Subsequently, the court passed an order precluding the defendants to submit their respective written statements and further ordered the case to be proceeded without written statements. Accordingly, the instant suit has been proceeded ex-parte with filing of examination in chief on affidavit of plaintiff's witnesses. In spite of the fact that the defendants were given chance for cross examination of the plaintiff evidences, none appeared for which purpose. The defendants did not contest the case.

I have carefully perused the plaint with its documents of Annexures, it is found that the plaintiff produced and annexed in his plaint two photo copies Pass/Permit in respect of his land bearing different number and year with different issuing authorities and he exhibited them as Exhibit P-IV is bearing Permit No.130/R/1969 and was issued for Garden land covering on area of 6(six) bighas issued by the Mizo District Council in the year 1969. The Exhibit-P-II is bearing P.Patta No.629 of 1981 covering an area of 6(six) bighas and was issued by the Government of Mizoram under section 4(2) of the Mizo District (Agricultural Land) Act 1963. It appeared to me that the Exhibit No.P-IV had been converted into P.Patta No.629 of 1981 (Exhibit No.P-II).

In his deposition, the plaintiff(Pw-1) stated and repeated what he had reflected in the plaint. He stated that he is the rightful and legal owner of the land covered by P.Patta No.629 of 1981 located at 47 KM South of Vairengte Village, Kolasib District, Mizoram and had been regularly paying revenue taxes for the said land. However, while he was in such peaceful possession, defendants No.1-4 illegally started construction of Agriculture Rest House without his consent within

his land. Defendant No.13 too illegally constructed a house within plaintiff's land without his consent in the year 2001. All other defendants too wrongfully constructed and built houses within his land thereby causing encroachment upon his land. Consequent upon this, he had approached concerned authorities from the level of Village Council Authorities upto the Chief Minister of a state. However, no fruitful results yielded. Hence approached this court for redressal of disputes. He exhibited the following documents:-

- 1) Exhibit P-I is his plaint.
- 2) Exhibit P-II is P.Patta No.629 of 1981.
- 3) Exhibit P-III is Receipt for payment of revenue taxes.
- 4) Exhibit P-IV is Permit No.130/R of 1969.
- 5) Exhibit –V is Representation submitted by him to Village Cpuncil Court, Vairengte dated 9.6.1986.
- 6) Exhibit P-VI is Representation to the Hon'ble Chief Minister of Mizoram dated 15.2.1999.
- 7) Exhibit P-VII is Representation to the Village Council Court, Vairengte.
- 8) Exhibit P-VIII is his representation to Asst. Settlement Officer-II, Land Revenue & Settlement Department, Kolasib dated 27.1.2005.
- 9) Exhibit P-IX is his representation to Asst. Settlement Officer-II, Land Revenue & Settlement Department, Kolasib dated 27.8.2007.

As the instant suit has not been contested by all the defendants, this court has no other option but to pass judgment and Order on the basis of the pleading of the plaintiff assuming that the defendants have nothing to say in the instant suit. The suit is this finally decided and decreed as follows:-

- 1) The plaintiff is the legal and rightful owner of the land covered by Periodic patta No.629 of 1981.
- 2) The defendants No.1-4 are directed to pay rental compensation to the plaintiff amounting to Rs.60,000/- with interest @6% per annum from the date of illegal occupation till payment of the compensation awarded and further directed to vacate the suit land with immediate effect.
- 3) The defendants No.5-13 are directed to vacate the suit lands within a period of six months from the date of this order.
- 4) Plaintiff shall be his own costs.

Having been decreed as above, this suit is hereby disposed of accordingly.

Pronounced in open court on this 19th day of April, 2012.

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

Memo No. /SCJ-I I(A)/2012: Dated Aizawl the 19th April,2012.
Copy to:

1. The District & Sessions Judge, Aizawl District, Mizoram for information.
2. Remthanga, S/o Rochhuana,Zalen veng, Vairengte through counsel Shri C.Zoramchhana.
3. The Chief Secretary, Govt. of Mizoram, Aizawl, Mizoram through Asst. Govt. Advocates.
4. The Secretary, Agriculture, Government of Mizoram, Aizawl, Mizoram through Asst. Govt. Advocates.
5. The Director, Agriculture, Government of Mizoram, Aizawl,
6. Mizoram through Asst. Govt. Advocates.
7. The District Agriculture Extension Officer, Kolasib District, Kolasib, Mizoram through Asst. Govt. Advocates.
8. F.Rithanga, S/o Aizika (L), Chhim veng, Vairengte, Kolasib District, Mizoram through counsels Shri W.Sam Joseph & ors.
9. Lalthanzuala, S/o Luahtanga, Chhim veng, Vairengte, Kolasib
- 10.District, Mizoram through counsels Shri W.Sam Joseph & ors.
- 11.Malsawmi, Chhim veng, Vairengte, Kolasib District, Mizoram through counsels Shri W.Sam Joseph & ors.
- 12.Lianmawia, S/o China, Chhim veng, Vairengte, Kolasib District, Mizoram through counsels Shri W.Sam Joseph & ors.
- 13.Ruatmawia, Chhim veng, Vairengte, Kolasib District, Mizoram through counsels Shri W.Sam Joseph & ors.
- 14.Rotinkhuma, S/o Sangthanga, Chhim veng, Vairengte, Kolasib District, Mizoram through counsels Shri W.Sam Joseph & ors.
- 15.Lunkhawliana, S/o Khuma, Chhim veng, Vairengte, Kolasib District, Mizoram through counsels Shri W.Sam Joseph & ors.
- 16.Thangliana, S/o Laltea, Chhim veng, Vairengte, Kolasib District, Mizoram through counsels Shri W.Sam Joseph & ors.
- 17.Lalmangaihzuali (Zualtei), D/o Thankhuma, Chhim veng, Vairengte,
- 18.Kolasib District, Mizoram through counsels Shri W.Sam Joseph & ors.
- 19.Registry Section.
- 20.Case record.

PESHKAR

