

**IN THE COURT OF THE SENIOR CIVIL JUDGE, AIZAWL DISTRICT,  
AIZAWL MIZORAM  
Title Suit No.24/2005**

Zathangpuii,  
W/o TT Manga (L)  
Sevenphul, Tachhip,  
Aizawl District, Mizoram

.....Plaintiff.

-Versus-

1. State of Mizoram  
Represented by the Chief Secretary to the Government  
of Mizoram.
2. The Secretary to the Govt. of Mizoram,  
Health Department, Aizawl.
3. The Director, Health Department,  
Govt. of Mizoram, Aizawl.
4. The Chief Medical Officer, Aizawl.
5. The Secretary to the Govt. of Mizoram,  
Land Revenue & Settlement Department,  
Aizawl, Mizoram.
6. The Director,  
Land Revenue & Settlement Department,  
Aizawl, Mizoram.
7. The ASO,  
Land Revenue & Settlement Department,  
Aizawl, Mizoram.
8. The Deputy Commissioner i/c Revenue,  
Aizawl District, Aizawl, Mizoram.

.....Defendant.

**BEFORE  
R.VANLALENA, Senior Civil Judge-2**

For the Plaintiff : Shri R.Thangkanglova, Advocate.  
For the Defendants: Shri R.K.Malsawmkima and Shri Joseph  
Lalfakawma, Asst. Govt. Advocates.  
Date of Judgement: 25.4.2012.

## **JUDGEMENT**

**25.4.2012**

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

That the plaintiff is a resident of Aibawk, Aizawl District, Mizoram and has a landed property at ITI veng, Aizawl covered by LSC No. Azl-25 of 1986 with an area of 157.43 Sq.m or ½ bigha. She inherited the said land from her late husband Shri T.T.Malnga who died on 22.11.2003. The said land was purchased by the late T.T.Manga from Shri Lalrochhara Sailo (L). However in the year 2004, Health and Family welfare Department, Government of Mizoram constructed a building for Maternity Centre on the strength of Permit given by the Land Revenue & Settlement Department, Government of Mizoram vide DPL No.17 of 2001 (Government letter No.K.15011/B/94-Rev/Pt dt.14.02.2001). For the construction of the said building, the said Departments have not acquired the land legally. As the plaintiff had already obtained LSC No.25 of 1986 in respect of the disputed land, the Government should have acquired if it required the said land for construction of Maternity Centre and must have paid compensation for the land. Since the land of the plaintiff had been illegally occupied by the health and Family Welfare Department, (Health Services Department) the said department is responsible to pay compensation or return the said land to the plaintiff. The plaintiff thus prayed the following reliefs:-

- a) For a decree in favour of the plaintiff.
- b) For an order directing the defendants to deliver vacant possession of the suit land to the plaintiff with land rent from 13.3.2001.
- or
- c) For an order directing the defendants to pay compensation amounting to Rs.9,00,000/- (Rupees nine lakhs) only to the plaintiff with 30% solatium and Land rent (rental compensation) as per the Government rate from 13.3.2001 and 12% per annum interest of the total amount of the above till full realization of the total amount.
- d) And to cause the defendants to pay court fees of Rs.5,000/- to the plaintiff.
- e) For any other reliefs as the court deems proper.

On the other hand, the Defendants contested the instant suit by filing written statements. In their written statements, defendants No.1-4 contested that the suit is not maintainable in its present form and style, there is not cause of action in favour

of the plaintiff and against the defendants, the plaintiff has no locus standi to file the instant suit as the land did not belong to the plaintiff. The suit is bad for non-joinder of necessary parties and mis-joinder of parties hence the suit is liable to be dismissed. The plaintiff has not complied with the mandatory provision of section 80 CPC 1908, as such it should be dismissed, moreover court fees has not been deposited. The suit is hopelessly barred by limitation estoppels and acquiescence and as such it should be dismissed outright. The answering defendants submitted that the Department is in need of land for establishment of maternity centre at ITI Veng as a Civil Hospital extension to meet the growing needs of the population. Therefore, the Department of Health Services approached the concerned authority for the said purpose. Thereafter, the Revenue Department allotted land to the Health Service Department (defendants No.1-4) within the land which belonged to the Labour Employment Department and was free from all encumbrances. As the said allotted land was within the Labour & Employment Department's land, it was not essential to acquire it for the answering defendants as it was the Government land. Hence the answering defendants constructed the said building for Maternity Centre on the strength of DPL No.17 of 2001 dated 14.02.2001. Moreover, the allotment of the land was done after careful verification of land by the Land Revenue & Settlement Department authority by observing all codal formalities. As such the answering defendants are not liable to pay compensation to the plaintiff. The answering defendants further stated that the plaintiff has claimed wrong location and the correct location of her LSC No.25 of 1986 is situated below the Jeepable road to ITI Vengthar which is outside the area of land whereon the said Maternity Centre was constructed. As such there is absolutely no question of payment of compensation to the plaintiff.

On the basis of the pleadings, the following issues are framed:

- 1) Whether the suit is maintainable in its present form and style?
- 2) Whether the location of LSC No.25 of 1986 is within the land of the Health Services Department, Government of Mizoram.
- 3) Whether the LSC No.25 of 1986 of the plaintiff was cancelled by the Government of Mizoram ?
- 4) Whether the defendants are liable to pay compensation or not?
- 5) Whether the plaintiff is entitled to any compensation, if so the what extent?

The plaintiff produced three witnesses including herself while the defendant examined two witnesses.

### Issue No.1

Whether the suit is maintainable in its present form and style ? With regard to this issue the plaintiff has filed the instant suit properly valued and verified. This court had passed an order dated 11.07.2006 maintaining the instant suit at the time of preliminary hearing on matter of maintainability. Hence this issue is decided in favour of the plaintiff.

### Issue No.2

Whether the location of LSC No.25 of 1986 is within the land of the defendants (Health Services Department) : The plaintiff in her examination in chief stated that her husband T.T.Manga (L) purchased a plot of land measuring ½ bigha covered by LSC No.25 of 1986 from Shri Lalrochhara Sailo who himself purchased the said land from Smt.Zohmangaihi and the said land was bounded by proposed road, S.Lalduhawma, ERH.Liana 'W' dry ravine. Her husband T.T.Manga died on 27.11.2003 and she obtained Heirship Certificate from concerned authority in respect of the said land. However, her plot of land was wrongfully grabbed by the defendants construction of Maternity Centre for which the concerned authority illegally issued DPL No.17 of 2001 dated 14.2.2001. As a consequence of which, she filed the instant suit on 9.8.2005 and sought reasonable compensation amounting to Rs.9,00,000/- with 12% interest and 30% solatium or to return the suit land to her with vacant possession. She further prayed rental charge calculating from the date of illegal occupation. In her cross examination, she stated that neither her husband nor she constructed any dwelling house within the suit land. She denied that she was uncertain about the actual location of the land covered by LSC No.25 of 1986. Pw 2 deposed that she knew T.T.Manga purchased a plot of land from Shri Lalrochhara Sailo in the year 1997 and the said land was covered under LSC No.25 of 1986. She also knew that T.T.Manga died in the year 2003 his wife Zathangpuii (Plaintiff) obtained Heirship Certificate from competent court in respect of all properties left behind by T.T.Manga. Pw 2 did not mention the location of the said land. Pw 3 namely Smt. Lianthuami stated and repeated what have been all stated by Pw 2. In her cross examination, she stated that she knew that the adjoining land of the suit land belonged to Sangi W/o Lalduhawma, but did not know who are the owners of the other side of the suit land.

On the other hand, Dw 1 namely R.Zarzoliana Surveyor-II, Land Revenue & Settlement Department, Govt. of Mizoram, deposed that as required by the

Director, Land Revenue & Settlement Department in connection with the proposed establishment of Maternity Centre at ITI veng, Aizawl, he and Shri K.Lalduhawma, Surveyor-II conducted spot verification of Misc.Pass No.48/1963 Block 7 boundary within which the said defendants were proposed to be allotted land for construction of Maternity Centre in presence of Dy. Director, and two Asst. Directors of Land Revenue & Settlement Department. As per the finding of the verification, the plaintiff's land appeared to be outside the proposed site for the Health Services Department for construction of the Maternity Centre. The said verification was conducted on 27.06.1996. He stated that he did not demarcate the land covered by LSC No.25 of 1986. However as per his personal information received from Shri Rosiamliana, Surveyor -II, the land covered by LSC No.25 of 1986 is somewhere else and not within the area of land for Health Services Department (defendants No1-4) As far as he knew the land of the plaintiff is located at below the Jeepable road to ITI Vengthar. Dw 2 namely K.Lalduhawma Surveyor-I, Directorate of Land Revenue & Settlement Department vide letter No.E-11011/12/01-DTE(Rev) dt.26.6.1996, a team of Surveyors with Revenue Officials conducted spot verification with regard to Misc.Pass No.48 of 1963 Block 7 boundary. As per the verification it was found that direct LSC No.25 of 1986 was issued to Smt.Zohmangaihi W/o R.T.Sailo of ITI Veng which was later transferred to in the name of Shri Lalrochhara Sailo. As per the location indicated between proposed road and the site of Shri Lalduhawma nearby the site of Shri R.H.Liana, Shri Rosiamliana, Surveyor-II reported to him that the plaintiff claimed wrong location and the actual location of LSC No.25 of 1986 is below the Jeepable road to ITI Vengthar and thus the land covered by LSC No.25 of 1986 did not fall within the land of defendant No.1-4. In his cross examination he stated that he was not sure whether the plaintiff claimed the right location or not. However, in his re-examination, he stated that after the said verification, he came to know that the land of the plaintiff does not fall within the land of defendants No.1-4. On careful perusal of the evidences on record, this court finds that the land of the plaintiff do not fall within the land occupied by defendants No.1-4. Hence issue No.2 is decided in favour of the defendants.

### Issue No.3

Whether the LSC No.25 of 1986 of the plaintiff was cancelled by the Government of Mizoram ? Even though the present issue had been made as one of the issues in the instant suit, it is quite not essential for determination of the real question involved in the suit. As neither the plaintiff nor the Defendants raised the matter of cancellation of the LSC, the evidence from deposition of the witnesses of the parties neglected the issue. However, nothing is mentioned in the pleadings about the cancellation of the said LSC, except the location of it, hence

the said LSC is presumed to be not cancelled and thus appeared to be valid as the same has not been disputed. Hence issue No.3 is decided in favour of the plaintiff.

#### Issue No.4 & 5

Whether the Defendants are liable to pay compensation or not and whether the plaintiff is entitled to the relief claimed, if so, to what extent/ The issues No.4&5 are taken together for the sake of convenience as the two are closely connected each other. By perusing all the evidences on record which revealed that the land covered by LSC No.25 of 1986 belonging to the plaintiff did not fall within the land occupied by the Defendants No.1-4, the Defendants No.1-4 have no liability to pay compensation to the plaintiff and hence issue No.4 is decided in favour of defendants. As the Defendants are not liable to pay compensation to the plaintiff, it has been held that the plaintiff is not entitled to the relief claimed. Hence issue No.5 is decided in favour of the Defendants that the plaintiff is not entitled to the relief claimed.

Having finally decided, the suit is accordingly decreed in favour of the Defendants and thus disposed of.

Parties shall bear their own costs.

Pronounced in Open Court in present of both parties.

Given under my hand and seal of this court on this 25<sup>th</sup> day of April,2012.

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

Memo No. /SCJ-I I(A)/2012: Dated Aizawl the 1st May, 2012.

Copy to:

1. The District and Sessions Judge, Aizawl District, Aizawl, Mizoram for information.
2. Zathangpuii, W/o TT Manga (L) Sevenphul, Tachhip, Aizawl District, Mizoram through her counsel Shri R.Thangkanglova.
3. State of Mizoram, Represented by the Chief Secretary to the of Mizoram through Asst. Govt. Advocates.
4. The Secretary to the Govt. of Mizoram, Health Department, Aizawl through Asst. Govt. Advocates
5. The Director, Health Department, Govt. of Mizoram, Aizawl through Asst. Govt. Advocates
6. The Chief Medical Officer, Aizawl through Asst. Govt. Advocates.
7. The Secretary to the Govt. of Mizoram, Land Revenue & Settlement Department, Aizawl, Mizoram through Asst. Govt. Advocates.
8. The Director, Land Revenue & Settlement Department, Aizawl, Mizoram through Asst. Govt. Advocates.
9. The ASO, Land Revenue & Settlement Department, Aizawl, Mizoram through Asst. Govt. Advocates.
10. The Deputy Commissioner i/c Revenue, Aizawl District, Aizawl, Mizoram through Asst. Govt. Advocates.
11. Registry Section.
12. Case record.

**PESHKAR**