

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

**Declaratory Suit No. 14/2007**

Vungngaii

W/o J.Hauthuama (L)

Durtlang Vengthar.

.....Plaintiff.

-Versus-

1. Lalchhanhima,

S/o Biakleta (L)

Chhinga veng, Aizawl.

2. Lalchawimawii

D/o Lalfakzuala (L)

Durtlang, Aizawl.

3. Lily Parmawii

D/o Lalliana (L)

Chaltlang Lily Veng, Aizawl.

4. The State of Mizoram,

Represented by the Chief Secretary to the

Govt. of Mizoram, Aizawl.

5. The Secretary to the Govt. of Mizoram,

Land Revenue & Settlement Deptt., Aizawl.

6. The Director,

Land Revenue & Settlement Deptt.,

Mizoram, Aizawl.

7. The Asst. Settlement Officer-I

Land Revenue & Settlement Department,

Aizawl District, Mizoram.

..... Defendants.

**BEFORE**

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

For the Plaintiff : Shri L.H.Lianhrima & Ors, Advocates.

For the Defendants

No. 1-4 : Shri B.Lalramenga , Advocate

For the Defendants

No.5-9 : Shri R.K.Malsawmkima and Joseph Lalfakawma  
Asst. Govt. Advocates.

Date of Hearing : 10.08.2012.

Date of Judgement: 23.08.2012.

### JUDGMENT AND DECREE

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

The plaintiff is a widow and without any issue. She is a permanent resident of Durtlang Vengthar, Aizawl Mizoram and the legal and lawful owner of immovable property covered by LSC No. 102702/01/639 of 2005. Sometime in the month of December 2006, the defendant number 2 and 3 approached the plaintiff stating that if they were allowed to use her LSC No. 102702/639 of 2005 for four months time, the plaintiff would earn Rs 50,000./- Just for a specified period of four months and the said LSC would be returned to her without fail within four months from the date of allowing the LSC to be used. That being ignorant, uneducated and poor, the plaintiff had been illegally persuaded by the undertaking given by the defendant No 2 and 3 that the loan amount of Rs 3,00,000/- (Rupees three Lakhs) along with the interest would be repaid to the loaner by themselves within four months and the LSC No. 102702/01/639 of 2005 would be returned to the plaintiff without any delay. As a result, the plaintiff with most reluctant agreed to give her LSC for the purpose of getting loan amount of Rs 3 Lakhs which was to be used by the defendant No 2 and 3.

That an agreement was thereafter allegedly made between the plaintiff and defendant No. 1 to the effect that the plaintiff would mortgage her LSC aforementioned for the loan amounting to Rs 3 lakhs to the defendant No 1 and the loan along with interests at the rate of 10% per month would be repaid. As per the said agreement, if the plaintiff failed to repay the loan along with interests at the rate of 10% per month within the stipulated period of time, the plaintiff would eventually forfeit the said LSC. Thereafter, the plaintiff was made to sign another agreement called **PAWISA PUK CHUNGCHANGA INTIAMKAMNA** on 17.07.2007 without her free consent and without knowing the contents of the said two agreements. To be more exact, the plaintiff put her signature to the said

two agreements without knowing the contents and that too under duress and coercion. On receipt of the loan amount of Rs 3 lakhs from the defendant No 1, the plaintiff had handed over the entire amount to the defendant No 2 and 3 who gave her Rs 50,000/-for letting them use the LSC for a period of four months. As a result, the defendant No 2 and 3 have undertaken and bound themselves to repay the loan amount of Rs 3 lakhs along with interests at the rate of 10% to the defendant No 1. The plaintiff had truly believed that the defendant No 2 and 3 would really repay the loan amount of Rs 3 lakhs along with interests as per their assurance and that she would eventually get her LSC back in original but to no avail. The plaintiff came to learn that the defendant No 2 and 3-have not repaid the said loan even after several months have elapsed. The plaintiff had appealed and repeatedly requested the defendant No 2 and 3 to repay the said loan as promised and undertaken by them as she was in danger of losing away her only landed property. And that the defendant No 2 and 3 had apparently tried their level best to repay the outstanding loan amount along with interests but in vain for one reason or another. The said agreement dated 11 December 2006 and 17 July 2007 are invalid and apparently unfair in as much as the defendant No1 is now taking undue advantage of the situation in making an attempt to take the plaintiff's land due to non-payment of loan with interests on the basis of document which is prohibited by law and is thus void ab ini tio. The agreement have not been registered as per law and no stamps duty has been paid on the loan amount as per the Indian Stamp (Mizoram Amendment) Act 1996. Since the agreement has not been registered as required by law, the same is invalid and cannot be enforceable under the provision of law. Hence the agreement dated 11<sup>th</sup> December 2006 and 17th July 2007 are null and void ab ini tio. The plaintiff being issue- less, after the death of her husband, has been living in the said landed properties for the past several decades alone and it is quite inconceivable for the plaintiff to part with her land for paltry sum of Rs 50,000/-. The plaintiff not being the receiver of the principal amount of loan, it would be highly unfair, totally unjust and completely unjustifiable if she is made to lose her only landed property in the present manner. The defendant No 1. with mala fide intention took an undue advantage of the situation and made the plaintiff to sign in the form of HMINGTHLAK DILNA without disclosing the purpose of the said form resulting in the illegal transfer of ownership of the landed property covered

by LSC No 102702/01/639 of 2005 by the defendant No 7 vide No R.21014/6/07-DC (REV)/Vol-X of 91 of 25.9. 2007. In fact, the plaintiff had submitted an application dated 27.9.2007 to the defendant No 7 for not knowing causing illegal transfer of the ownership of her LSC No.102702/01/639 of 2005. Even then, the defendant NO.7 had transferred the ownership of the plaintiff's LSC from the name of Vungngaii to Lalchhandama without the knowledge of and consent of the LSC holder. Furthermore, the plaintiff had earlier submitted written objection to the defendant No 7 on 7.5.2007 for not transferring the ownership of her LSC without her consent. However, the defendant No 7 had intentionally transferred the ownership of LSC No 102702/01/639 of 2005 from the name of the plaintiff to the name of the defendant No 1 for reason best known to him. Even though the instrument was enforceable with stamp duty, the agreement dated the 11 December 2006 and 17 July 2007-have not been stamped as per Act, therefore the document cannot be acted upon and is thus inadmissible in evidence. Hence the said agreements are null and void. The agreement executed between the plaintiff and defendant No .1 required compulsory registration. As per section 18 of the Registration Act, every document pertaining to immovable property required compulsory registration. Hence, registration is compulsory in the instant case also in as much as the registration Act is in force. This is a fit case for the Court to restrain the defendant No 1 from mutating or changing the ownership of LSC No 102702/01/639 of 2005 and direct the defendant to deposit the original copy of the said LSC to the Court. The cause of action arose on 11 December 2006 when the said agreement dated 11 December 2006 and 17th July 2007 were executed at Aizawl and the parties are residents of Aizawl. Hence the court has territorial jurisdiction to try the instant suit. The suit is valued at Rs 15 lakhs. However as this is a declaratory suit where only the declaratory decrees are being prayed for, court fees of Rs 30/-is affixed to the plaint as per section 17 (111) of the Court Fees (Mizoram Amendment) Act 1996. The immovable property is situated at Durtlang and the cause of action arose within Aizawl city and the defendants are residing at Aizawl. Hence this Court has jurisdiction to entertain and dispose of the suit. The instant suit is filed with bona fide intention and for the interests of justice.

The plaintiff therefore prayed that:

(a) Let a decree be passed declaring that the agreements dated 11 December 2006 and 17 July 2007 as null and void and unenforceable.

(b) Let the decree be passed declaring that the defendant No 1 is liable to return the original LSC No 102702/01/639 of 2005.

(c) Let the decree be passed declaring that the order No.R-21014/6/07-DC (REV)/Vol-X/91 of 25 September 2007 transferring the ownership of LSC No.102702/01/639 of 2005 from Vungngaii to Lalchhanhima as null and void.

(d) Let the decree be passed declaring that by way of mandatory and permanent injunction that the defendant No 1 should not disturb the peaceful possession and enjoyment of land and building covered by LSC No 102702/01/639 of 2005 and be restrained from dispossessing the plaintiff from the said property and doing any act detrimental to the interests of the plaintiff.

(e) Let the decree be passed declaring that the defendant No 2 and 3 are liable to repay the loan amount with interest as per law to the defendant No.1.

(f) Let the cost of the suit be decreed in favour of the plaintiff against the defendants.

(g) Let any other relief of which the plaintiff is entitled according to Justice, equity and good conscience be decreed in favour of the plaintiff.

On the other hand, the defendants submitted written statement contesting the instant suit. The defendant No 1 namely Lalchhanhima contested the suit stating that the instant suit is not maintainable in its present form and style and is liable to be dismissed. There is no cause of action in favour of the plaintiff and against the defendant. The suit is barred by the doctrine of estoppel, and as such it is liable to be dismissed. He submitted that all the averments made in the plaint are denied. He submitted that the plaintiff is a matured person who is having the ability to exercise her mind freely, knowing what is right and wrong for her interest. The fact is that the plaintiff asked the answering defendant for a loan and when the answering defendant asked the plaintiff for what purpose she wanted to take loan, the plaintiff stated that for running a business. At the time of taking loan from the answering defendant, the plaintiff knew very clearly about the terms and conditions that in case of default of payment of loan within stipulated period of time, she will lose her mortgaged landed property covered under LSC No.102702/01/639 of 2005 and the answering defendant shall have

liberty to take over the said landed property. In spite of clear explanation made by the answering defendant to the plaintiff about the said terms and conditions and also about the risk of losing away her said mortgaged property, the plaintiff agreed to take the loan without any reluctance from the answering defendant. Moreover, before the plaintiff put her signature on the said PAWISA PUK INTIAMKAMNA dated 11 December 2006 the answering defendant read out to the plaintiff the contents which were written in Mizo language, and after fully knowing the contents of Pawisa Puk Intiamkamna the plaintiff willfully put her signature to it indicating that she totally agreed to the same. Further, it was the plaintiff who received the loan amount of money from the answering defendant and at the time of taking the loan from the answering defendant, the plaintiff never mentioned about the involvement of the defendants No 2 and 3 and it was only after filing of the instant suit by the plaintiff that the answering defendant came to know from the plaintiff about alleged interference of the defendants No 2 and 3 in the matter. Therefore, it is unbelievable, concocted and unacceptable to state belatedly that the defendants No 2 and 3 were the persons who took loan from the answering defendant through the plaintiff. It is submitted that the plaintiff, when standing on the verge of losing away her mortgaged landed property, fabricated the story by twisting/distorting the facts and file the present suit with mala fide intention.

It is further submitted that the plaintiff was unable to repay her loan to the answering defendant within the fixed period of time as such she earnestly prayed the answering Defendant for giving more time. Consequently, the answering defendant extended the time for recovery of loan in favour of the plaintiff, and accordingly **Pawisa Puk Chungchanga Intiamkamna** dated 17 July 2007 was extended by the plaintiff whereby she stated clearly that as she was unable to recover entire loan amount within 11 December 2006 to 11 April 2007, she shall liquidate the entire amount of dues within 10 days i.e. with effect from 17 July 2007 to the answering defendant and in case of failure of the repayment of the same within 10 days, she agreed to the forfeiture of the landed property by the answering defendant. The contents of **Pawisa Puk Chungchanga Intiamkamna** was fully understood by the plaintiff at the time she put her signature on it, and at that particular time she still neither mentioned about the alleged involvement of the defendant No 2 and 3 nor raised any objection to it. It was under a calm and hassle-free atmosphere, without such threat or coercion that the plaintiff executed the said two UNDERTAKINGS dated 11 December 2006 and 17 July 2007

respectively. Hence, the instant suit is bad in law, fabricated, barred by estoppel, and as such the same is liable to be rejected outright. The averments made in paragraph No 5 of the plaint are denied. It is submitted that the plaintiff did not disclose anything at the time of receiving the said loan amount from the answering defendant about handing over of the entire amount of loan to the defendants No 2 and 3. Therefore, it is unbelievable and not sustainable trying to escape from repayment of her debt by the plaintiff in such a manner by making up concocted story that it was the defendant No 2 and 3 who are responsible for recovery of the loan, and as such the suit is liable to be dismissed. It is further submitted that what the plaintiff had stated in her plaint after the lapse of many months (not at the time of taking of the said loan) is beyond the knowledge of the answering defendant, as such the plaintiff be put to strict proof of the same. It is submitted and reiterated that it is the plaintiff who took the said loan from the answering defendant and it is she who executed all the necessary documents relating to the loan, as such it is not sustainable trying to pull the defendants No 2 and 3 into the matter so as to make herself (plaintiff) exempted from the said liability. Hence the suit is bad in law, inconceivable, unsustainable and as such the same is liable to be dismissed. The answering defendant submits that assuming but not admitting that the interest at the rate of 10% per month is against the Usurious Loan Act, however it does not mean that the plaintiff is not liable to repay her debt to the answering defendant. The plaintiff is liable to repay the debt with interest permissible to be paid as per the law. Hence the very fact that the plaintiff is to repay the loan to the defendant failing which her mortgaged landed property shall be forfeited cannot be challenged or agitated at this stage in any manner by the plaintiff for the very reason that she admittedly and willingly took the loan after exercising her sound mind knowing the consequence thereto in default of payment. When the plaintiff asked for extension of time after she failed to liquidate her loan within the stipulated period of time, the answering defendant graciously gave 10 days more chance for recovery of her loan dues. Further, the answering defendant had waited for such a long period of time, however within that period, the plaintiff deliberately failed to recover the loan. Therefore, there is no other way or option for the answering defendant except to make the plaintiff forfeit her mortgaged property for the purpose of liquidation of her outstanding dues, as such there is no taking undue advantage of such a situation by the answering defendant. The agreements dated 11 December 2006 and 17 July 2007 cannot become invalid and unenforceable only because of non-compliance of the Indian Stamp (Mizoram Amendment) Act 1996. The main issue

to be considered in this regard is that the plaintiff had actually taken the loan from the answering defendant with a Pledge to repay the entire amount within the prescribed period of time and on certain terms and conditions, and the same was agreed to by both the parties. Thereafter the agreement was only put down into writing. Therefore, since the two agreements dated 11 December 2006 and 17 July 2007 are sustainable and executable under the law as the same had been made by the plaintiff after exercising her own sweet- will and giving of her willful consent, there is nothing wrong on the part of the answering defendant to execute the aforesaid two agreements. It is submitted that the plaintiff, not the defendants No 2 and 3 is sole responsible to repay Rs 3 lakhs with interest at the rate of 10% per month to the answering defendant due to the fact that the defendants No. 2 and 3 were not the LOANEES and their means were also not reflected in the documents on record, i.e, **The Agreement Deeds (INTIAMKAMNA)** dated 11 December 2006 and 17 July 2007 and their names were also not even appeared in the picture relating to the matter. It is further submitted that the plaintiff has to think of the poor and sympathetic condition of the answering defendant No1 who has been suffering till date since 11 December 2006, i.e, the time of taking the loan by the plaintiff. It is not only for a sum of Rs 50,000/- that the plaintiff had mortgaged her landed property, and it is for a sum of Rs 3,00,000/- (Rupees three lakhs) to be repaid with interest that the plaintiff mortgaged her land to the answering defendant, and as such it will be more inconceivable for the answering defendant to lose his only saved money for nothing if he is to return the mortgaged property without getting the loan amount of money back from the plaintiff. The defendant submitted that the plaintiff in fact signed the application form for transfer of ownership of LSC which was prescribed form prepared by the concerned department-Land Revenue & Settlement Deptt. Govt.of Mizoram and she gave her signature willfully and after well understood of the contents. In the serial No 6 of the front page of the said application form, the reason for transfer of LSC was clearly written as **Leiba aia pek (given for recovery of debt)** and this is being clarified/described clearly to the plaintiff and she had no objection to it at that particular time. Therefore, it is only because of the ill-advised given to her by someone that the plaintiff wrongly said at this time that the transfer of LSC was against her will. Moreover the defendant No.7 had done no wrong in transferring the LSC in favour of the answering defendant No 1 as he had followed the formal and right procedure as per the law. Hence, it is further submitted that the plaintiff did not approach this Hon'ble



Court with clean hands by suppressing the material facts and with it concocted story, as such the suit is liable to be dismissed.

The defendant No 4-7 submitted a written statement on 9 June 2008 contesting the suit that it is not maintainable in its present form and style, there is no cause of action in favour of the plaintiff and against the defendants. The suit is barred by limitation, principle of estoppel, acquiescence and equity. It is bad for non-joinder of necessary parties and missed- joinder of parties. It has not been properly verified in accordance with law. On merits, the defendants No 4-7 submitted that it is beyond the knowledge of Revenue Department that an Agreement had been made between the plaintiff and the private defendant. Thus the Revenue Department has no liability whatsoever and is in no way responsible to any dispute between the plaintiff and the answering defendant No 1 arising out of the said Agreement. The defendants No 4-7 further submitted that they have no comments with regard to the contents of paragraph No 3-23 of the plaint and prayed the court to dismiss the suit.

On the basis of the pleadings of the plaintiff, the defendant No.1 and the defendants No 4-7, the Court framed the following issues. The defendants No 2 and 3 failed to submit their written statements in spite of sufficient time given to them and notice served upon them presuming that they have no comments in this case against the plaintiff or the defendants.

1. Whether the present suit is maintainable in its present form and style?
2. Whether the Pawisa Pukna leh Intiamkamna dated 11 December 2006 and 17 July 2007 are unenforceable and invalid in the eye of law?
3. Whether the Order No R-21014/6/07-DC (REV)Vol-X/91 of 25 September 2007 is sustainable in the eye of law?
4. Whether the Plaintiff is entitled to the relief claimed, if so, to what extent?

The Plaintiff examined three witnesses including herself while the defendant No 1 examined three witnesses including himself. The defendants No 2 and 3 failed to produce any witnesses, the defendants No 4-7 too failed to produce witnesses.

Issue No 1: whether the present suit is maintainable in its present form and style. On 5th November 2008, the court passed an order for further proceeding of the suit maintaining the case. On this particular day the plaintiff was present through Ld Counsel. The defendant No 1 was also present through his Ld Counsel. The defendants No 4-7 were also present through Ld Asstt. Govt Advocate. The defendants No 2 and 3 were absent without step. As the suit has been proceeded and maintained, I have no reason to raise the issue again at this stage.

Issue No 2: The plaintiff in her examination in chief, she deposed that sometime in the month of December 2007, the defendants No 2 and 3 approached her in her residence in which they stated that if they were allowed to use her LSC No 102702/01/639 of 2005 for a period of four months, she would earn Rs 50,000/- just for the specified period of four months and the said LSC would be returned to her without fail within four months from the date allowing the LSC to be used. Being ignorant, uneducated and poor, she had been illegally persuaded by the undertaking given by the defendants No 2 & 3 that the loan amount of Rs 3 Lakhs along with interest would be repaid to the loaner by themselves within four months and that the LSC No 102701/01/639 of 2005 would be returned to her without any delay. As a result, she had with most reluctant agreed to give her LSC for the purpose of getting loan amount of Rs 3 lakhs which was to be used by the defendants No 2 & 3. For the purpose of borrowing loan amount of Rs 3 lakhs by the plaintiff from the defendant No 1, agreement was made between the parties. As per the agreement, if the plaintiff failed to repay the loan along with interest at the rate of 10% per months within stipulated period of four months, the plaintiff would eventually forfeit the LSC. Thereafter she was made to sign another agreement called **PAWISA PUK CHUNGCHANGA INTIAMKAMNA** on 17 July 2007 without her free consent and without knowing the contents of the agreements. To be more exact, the plaintiff simply put her signature to the two agreements without knowing the contents and that too under duress and coercion. The plaintiff therefore received Rs 3 lakhs from the defendant No 1 but she handed over the entire amount of loan to the defendant No 2 & 3 who in turn gave Rs 50,000/- to her for letting them use her LSC for a period of four months. As a result, the plaintiff was not the person who actually benefited by the loan. The agreements made by the parties were not duly registered as required by registration of Documents of Law, the same cannot be regarded and treated as genuine. On the other hand the defendant No 1 stated that on 11 December 2006 he met the plaintiff and on this particular day

the plaintiff borrowed the loan from him. He added that before the plaintiff signed the agreement for **Pawisa Puk Intiamkamna**, the defendant himself read out the contents of the agreement to the plaintiff who very well understood the meaning of and the contents of the agreement. After this, the plaintiff put her signature to the agreement for the loan which carried interest of 10% per month and the loan was for a period of four months. However even after the expiry of the period fixed for repayment, the plaintiff failed to repay the loan. He therefore on humanitarian consideration, extended the period for repayment for which he and the plaintiff entered into another agreement called **Pawisa Puk Chung changa Intiamkamna** on 17 July 2007. As per this, the plaintiff was given another 10 days for full repayment of the loan with the interest of 10% per month. On careful perusal of the evidences of the plaintiff and defendant No 1, it is seen that the plaintiff borrowed Rs 3 lakhs from the defendant No 1 with interest at the rate of 10% per month. It is further seen that the plaintiff failed to repay the loan within the stipulated period. It is also seen that the plaintiff and the defendant No 1 made agreements for the said loan. On perusal of the exhibits of the plaintiff and defendant, it is seen that the Deed of the agreements were not registered as required by law. To make the Deed of agreements admissible in evidence, the same must be duly registered as per law. However a document not registered may be acceptable and admissible in evidence if the same was attested and testified by at least two witnesses. In the present case, the alleged documents/Deeds of agreements as seen have not been testified by required number of witnesses. Therefore, this Court is constrained to presume that the alleged Deeds of agreements were not duly prepared and made by the plaintiff and defendant No 1. As per section 17 (1) (b) of the Registration Act, 1908, document not registered is invalid and not enforceable under the provision of law. According to the Notification No.H.12017/24(ii)/95-LJD dated 5th June 1997, the President, District Council Court, Aizawl was appointed as Ex-Officio District Registrar under section 6 of the Registration Act, 1908 with immediate effect and until further order. In the instant case, it is seen that the Deeds of Agreements have not been registered as per law. Hence issue No 2 is decided in favour of the plaintiff holding that the two agreements dated 11 December 2006 and 17 July 2007 were unenforceable and invalid in the eye of law.

Issue No 3: Whether the Order No R-21014/07-DC (REV)Vol-X/91 of 25th September 2007 is sustainable in the eye of law. The plaintiff in her examination

in chief stated that she was made to sign in the form of **Hming thlak Dilna** by the defendant No 1 after taking advantage of the situation wherein she was unable to repay the loan to the said defendant. At the time she was made to sign the form the contents of it were not disclosed to her resulting in the illegal transfer of ownership of the landed property covered by LSC No 102702/01/639 of 2005 by the defendant No 7 vide No.R-21014/6/07-DC(REV)/Vol-X of 25.Sept.2007. In fact she had submitted an application dated 27th September 2007 to the defendant No 7 for not knowingly causing illegal transfer of the ownership of her LSC. Even then the defendant No 7 had transferred the ownership of the LSC from the name of Vungngaii to Lalchhanhima without her knowledge and consent. Further, she had earlier submitted written objection to the defendant No 7 on 7thMay 2007 for not transferring the ownership of the LSC without her consent. However, the defendant No 7 intentionally had transferred the ownership of LSC No.102702/01/639 of 2005 from her name to the name of defendant No 1 for the reason best known to him. In her cross-examination she stated that she had signed the application form for transfer of ownership of the LSC in order to put pressure upon the defendants No 2 & 3 to return or repay the loan taken through her by them from the defendant No 1. That is the main reason why she put her signature on the said application. On the other hand, all the witnesses of defendants were silent about the application for transfer of ownership of the LSC. By going through the evidence on record, it appeared that the plaintiff was misguided, misinformed the real nature of the application form for transfer of ownership of LSC. As issue No 3 is the result of invalid documents of agreements, it is not sustainable in law. As the plaintiff has been under pressure to repay the loan which she was not the real recipient, she, without applying free consent has signed the document/application for transfer of ownership of the LSC. At the time of filling up and giving signature to it, the plaintiff was pressurized by the defendants No 2 and 3 to give her signature who were the person behind this matter actually received the loan from the defendant No 1 but through the plaintiff. In the result, the order of the defendant No 7 is not sustainable in law. Hence, this issue is decided in favour of the plaintiff.

Issue No 4: whether the plaintiff is entitled to the relief claimed, if so to what extent. The plaintiff stated that she received loan amount of Rs 3 lakhs from the defendant No 1 but the same was handed over to the defendants No 2 and 3 while she was paid Rs 50,000/-(Rupees fifty thousand) by the defendants No 2&3 as commission/charges for using her LSC for getting the loan. For this purpose,

the plaintiff mortgaged her LSC as requested by the defendants No 2&3. However she did all these things as requested by the defendants No 2&3. PW2 namely Sh.Lalramzauva resident of Durtlang Vengthar stated that the defendants No 2&3 used the LSC No 102702/01/69 of 2005 belonging to the plaintiff for taking loan amounting to Rs 3 lakhs from the defendant No1. For this purpose ,the defendants No 2&3 paid Rs 50,000/-to the plaintiff. He added that the two defendants used the LSC for a period of four months. He stated that one of the defendants i.e.Lalchawimawii is a resident of the same locality and she is the person who actually received the loan of Rs 3 lakhs from the defendant No 1 and is responsible for the loan. As per promise of the two defendants, the plaintiff would be receiving back her LSC after four months but still failed to do the same. In her cross-examination, PW2 stated that she did not see the act of handing and taking of money between the plaintiff and the Defendant No 1. PW3 namely Dr.Vanlalruata stated in his deposition that one of the defendants namely Lalchawimawii is a resident of the same locality. He stated also that the two Defendants used the LSC of the plaintiff by paying Rs 50,000/-to the plaintiff for borrowing money amounting to Rs 3 lakhs from the defendant No. 1 by which this LSC had been mortgaged. He stated further that the two Defendants i.e.No 2&3 actually received the loan money. The two Defendants are solely responsible for the loan for which they mortgaged the LSC belonging to the plaintiff. In his cross-examination,PW3 stated that he was not present at the time when the defendant No 1 gave the money to the plaintiff, but denied that he deposed at the instance of the plaintiff. Claiming the relief, the plaintiff exhibited the following documents:-

1. Exhibit P-1 is the plaint copy submitted by her and exhibit P-1 (a) and (b) are her signatures.
2. Exhibit P-2 is typed copy of Pawisa Puk Intiamkamna.
3. Exhibit P-3 is a copy of Pawisa Puk Chungchanga Intiamkamna dated 17 July 2007.
4. Exhibit P-4 is INREMNA dated 16 July 2007.
5. Exhibit P-5 is a copy of objection submitted by the plaintiff.
6. Exhibit P-6 is a copy of the letter submitted by the plaintiff.
7. Exhibit P-7 is a copy of objection made by Sh Lalchhanhima (Defdt no.1).

8. Exhibit P-8 is a copy of LSC No 102702/01/639 of 2005.

Exhibit P-4 is written down in Mizo language and the same is a **Deed of agreement (INREMNA)** by which the defendants No 2&3 stated that they borrowed the LSC belonging to the plaintiff for getting/taking loan amounting to Rs 3 lakhs from the defendant No 1 and they paid Rs 50,000/-to the plaintiff as a commission/charges for using the said LSC No.102702/01/639 of 2005. This document of **INREMNA** has been attested and testified by PW2 and PW3. The defendants No 2&3 also put their signatures to the document of agreement but not testified before the court. From this it appeared that the Defendants No 2&3 took the loan amounting to Rs 3 lakhs from the defendant No 1 but the said loan money was for not the Plaintiff but for the defendants No 2&3 by using the LSC of the plaintiff for which they paid Rs 50,000/-to her and the said LSC was mortgaged to the defendant No 1.

On the other hand, the defendant No 1 stated that in the year 2006, one Smt.Nuthuami (DW3)resident of Armed Veng, Aizawl told him that there was one person who was willing to borrow money with good amount of interest at the rate of 10% per month and further told that the said person needed Rs 3 lakhs as a loan. Therefore, he went to the residence of the plaintiff who was reported to be willing to borrow money at Durtlang Vengthar. He therefore enquired and asked the plaintiff as to why she needed the money. In reply to this the plaintiff told him that she required the money for running business. After this he met again the plaintiff on the 11 December 2006 on this day itself the plaintiff signed documents of agreement called **Pawisa Puka Intiamkamna**. As per the agreement the loan was intended for a period of four months. He therefore handed over the money to the plaintiff and on the same moment the plaintiff handed over her LSC as a mortgaged property to him. However after the expiry of the period fixed for repayment of the borrowed money, the plaintiff failed to repay the loan. The plaintiff requested him to extend the time for repayment of the loan. Taking the matter sympathetically, the defendant extended the time for repayment of the loan, for which another document of agreement called **Pawisa Puk Chungchanga Intiamkamna** was made between them by which the time for repayment was extended for another 10 days. The defendant No 1 stated that before giving loan money and making undertaking, the contents of the documents of agreements were clearly read out to the plaintiff. In his cross-examination the defendant No 1 stated that in the year 2006 he saw the defendants No 2&3 at the residence of the plaintiff who were at the time along with the plaintiff.

On careful perusal of the evidence available on record and documents of exhibits available on records, it is evident that the defendants No 2&3 had used the LSC of the plaintiff for borrowing as a mortgaged property for taking loan amounting to Rs 3 lakhs from the defendant No 1 and that the two defendants paid Rs 50,000/-to the plaintiff as a price for using the Plaintiff's LSC. This indicated that the two defendants are the person who actually had taken loan from the defendant No 1 through the plaintiff by using the LSC of the plaintiff. It is also evident that the deeds of agreements dated 11 December 2006 and 17 July 2007 have not been registered as required by law rendering the two agreements invalid and not enforceable. The evidence on record further revealed that the LSC No 102702/01/639 of 2005 had been mutated from the name of the plaintiff to the name of the defendant No 1 which was applied for by the plaintiff but was under pressure/misguide from the defendants No 2&3. In the circumstances aforementioned, this Court is of the considered view to decide the issue No 4 in favour of the plaintiff. Hence this issue is decided in favour of the plaintiff.

Having decided all the issues finally, the present suit is decreed accordingly as follows:-

1. It is hereby declared that the two Agreements dated 11 December 2006 and 17 July 2007 are null and void and not enforceable.
2. It is also declared that the Defendant No 1 is liable to return the original copy of LSC No.102702/01/639 of 2005 to the Plaintiff within two months from the date of this Decree.
3. The Order No.R-21014/6/07-DC(REV)/Vol-X of dt.25.09.2007 transferring the ownership of the LSC No.102702/01/639 of 2005 from Vungngaii to Lalchhanhima is null and void.
4. The Defendant No 2 & 3 namely Smt.Lalchawimawii d/o Lalduhzuala and Smt. Lilymawii d/o Lalliana (L) respectively are hereby declared liable to repay Rs 3 Lakhs with interest at the rate of 10% per month with effect from 11<sup>th</sup> December 2006 till full realization to the Defendant No 1. Namely Shri.Lalchhanhima within a period of two months from the date of this Decree.

Parties shall bear their own costs.

The Suit having been decreed as above is hereby disposed of.

Pronounced in open Court in presence of parties on this 23<sup>rd</sup> August 2012.

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

Memo No. /SCJ-I I(A)/2012:Dated Aizawl the, 23<sup>rd</sup> August,2012.

Copy to:

1. The District and Sessions Judge, Aizawl District, Aizawl, Mizoram for information.
2. Vungngaii, W/o J.Hauthuama (L) Durtlang Vengthar through her counsel Shri L.H.Lianhrima.
3. Lalchhanhima, S/o Biakleta (L) Chhingaveng, Aizawl through counsel Shri B.Lalramenga.
4. Lalchawimawii, D/o Lalfakzuala (L) Durtlang, Aizawl through counsel Shri B.Lalramenga.
5. Lily Parmawii, D/o Lalliana (L) Chaltlang Lily Veng, Aizawl through counsel Shri B.Lalramenga.
6. The State of Mizoram, Represented by the Chief Secretary to the Govt. of Mizoram, Aizawl through Assistant Govt. Advocates.
7. The Secretary to the Govt. of Mizoram, Land Revenue & Settlement Deptt., Aizawl through Assistant Govt. Advocates.
8. The Director, Land Revenue & Settlement Deptt., Mizoram, Aizawl through Assistant Govt. Advocates.
9. The Asst. Settlement Officer-I, Land Revenue & Settlement Department, Aizawl District, Mizoram through Assistant Govt. Advocates.
10. Shri R.K.Malsawmkima and Shri Joseph Lalfakawma, Assistant Govt. Advocates.
11. Registry Section.
12. Case record.

PESHKAR