

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

Civil Suit No 53 of 2008

UPC of Mizoram, General Hqrs,
Chaltlang Aizawl (Represented by
Rev. H. Vanlaltlana, Gen. Superintendant)

..... Plaintiff

-Versus-

Smt Lallianpuü
R/O Peter Street, Khatla
Aizawl Mizoram

..... Defendant

P R E S E N T

SHRI R.VANLALENA MJS, Senior Civil Judge

- | | | | |
|----|-------------------|---|---|
| 1. | For the Plaintiff | - | Mr. L.H.Lianhrima Advocate
Mr. Lalhriatpuia Advocate |
| 2. | For the Defendant | - | Mr. M.M.Ali Advocate
Mr. H.Lalremruata Advocate |
| 3. | Date of Hearing | - | 10-01-2012 |
| 4. | Date of Judgment | - | 24-02-2012 |

J U D G M E N T A N D O R D E R

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

That the Plaintiff is the United Pentecostal Church of Mizoram represented by its General Superintendent having its General Headquarters' Office at Chaltlang, Aizawl while the defendant is a permanent resident of Peter Street, Khatla, Aizawl. That the defendant borrowed an amount of Rs 4 lakhs from one Lalrivenga in the year 1996 and as defendant could not repay the said amount, the said Lalrivenga filed Money Suit against her and obtained a decree against the defendant who could not even clear the decretal amount. As a result, Lalrivenga filed an Execution Case which was registered as Execution Case No 12 of 1998 for an amount of Rs 10,00,000/- Thereafter, the Ld. Sub District Council Court in order to execute the decree attached the landed property covered by the said LSC No 61 of 1970 belonging to the defendant and passed an order for auction sale of

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the said property. Accordingly, there were 14 bidders for purchase of the same. That since all the 14 bidders had neither deposited their bid money nor enquired about the auction sale of the suit land and building, all the said bidders were informed to enquire about the auction sale of the landed property meant for auction if they were still interested. As a result, Shri Lalthakima was selected as the highest bidder by the Ld Sub District Council Court out of the 13 bidders who participated in the auction purchase of the said landed property of the defendant. That in the meantime, the Plaintiff displayed advertisement in the local newspaper in the beginning of the year, 2003 stating that a plot of land for establishment of their General Headquarters was required and interested person might contact with them in that connection. As a result, the defendant who had decided to take advantage of the situation, contacted with them and apprised them of her predicament saying that her land and building covered by LSC No 61/70 had to be auctioned for clearance of her financial liability amounting to Rs 10 lakhs. The defendant had, therefore, earnestly requested the Plaintiff to purchase her said land and building covered by LSC No 61/70. That on the request of the defendant, the Plaintiff and the defendant had duly executed Deed of Agreement dated 28-05-2003 before the Magistrate of the First Class and three reliable witnesses in connection with the land and building covered by LSC No 61 of 1971. In fact, there are five terms and conditions laid down in the said Agreement and both parties were bound to abide by them. Accordingly, the Plaintiff gave Rs 10,00,000/- to the defendant for bidding the auctioned house in her name. However, the defendant bade in the name of one Lalthakima in violation of their said agreement. On enquiry from the defendant, the defendant stated that it was beyond her knowledge that the Court had given the land and building in the name of said Lalthakima. And when the defendant was asked if she had spent Rs 10,00,000/- for bidding the auction in the name of Lalthakima, the defendant admitted and replied in affirmative. Further, the defendant refused to divulge the proper address of the said Lalthakima. The Plaintiff was beginning to realize that the defendant had failed to abide by the terms and conditions of their agreement as she had deliberately deceived the Plaintiff. That since the defendant flatly refused to disclose the actual address of Lalthakima, the Plaintiff made an intensive search and massive hunt on the unknown bidder who was said to be a Taxi driver by profession. The Plaintiff had somehow managed to locate him at his place of stay at Republic Veng, Aizawl. After having discussed the matter at length with him, the Plaintiff and Shri Lalthakima made an agreement to the effect that if the defendant, Smt Lallianpuui had desired to get her land and building back she should give Rs 10 lakhs without interest to the Plaintiff within 50 days from the date of order dated 29-5-2003. Failing which the defendant should hand over the land and building to the Plaintiff, UPC of Mizoram. That since the defendant was not able to pay for the required amount of Rs 10 lakhs to the Plaintiff in compliance with the agreement aforementioned, Shri Lalthakima submitted an application dated 11-5-2005 to the Court concerned stating amongst others that the defendant was not able to pay for the said amount during the stipulated period of time granted to her and petitioned the court to take the LSC No 61/70 from the defendant and give it to the Plaintiff as per their agreement dated 4-7-2003 duly sworn before the court. As a result, the competent court passed an order dated 11-05-2005 directing the defendant, Smt Lallianpuui to hand over the LSC No 61/70 to the Plaintiff and vacate the disputed land and building on or before 25-05-2005. That the defendant submitted an

application to the Plaintiff with a prayer that since she was unable to vacate the suit land and building within the stipulated period of time due to unavoidable resources and to allow her to occupy the suit land and building as tenant with effect from 15-1-2004 by paying monthly rental fees. As a result, the matter was discussed and considered by the Plaintiff and informed the defendant in writing that she was allowed to continue to occupy the suit land and building for a monthly rent of Rs 8000/- commencing from 15-1-2004. That as per agreement aforementioned, the defendant started occupying the land and building of the Plaintiff as tenant beginning from 15-1-2004. In fact, the defendant had paid rental fees w.e.f. the month of February, 2004 to April, 2004. The defendant has not paid rental fees for the month of May, June and July, 2004 while she paid Rs 5,000/- as part payment for the month of August, 2004 on 3rd August, 2004. Thereafter, the defendant has not made any payment of rental fees to the Plaintiff upto this date without showing any reasonable cause or excuse. Hence, the Plaintiff wrote to the defendant vide Letter No.B.1011/2/03/UPC(MZ)/1 dated 1st October, 2004 informing her that since she failed to pay rental fees for several months, she should vacate the land and building on or before 20th October, 2004. That the defendant had handed over the LSC No 61 of 1970 to the Plaintiff on 28-9-2005 and also promised to vacate the land and building covered by the said LSC by November, 2005 if she could not pay Rs 10 lakhs. Unfortunately, the defendant was not able to pay Rs 10 lakhs even after the month of November, 2005. As a result, the competent court passed an order directing the defendant to vacate the land and building covered by LSC No 61 of 1970 within one month from the date of order 2-12-2005. It may be pertinent to mention that when the defendant was given 50 days to redeem her said land and building from the Plaintiff on 29-3-2003, the defendant had automatically forfeited her right after elapse of the said period. That the defendant had breached the agreement dated 28-5-2003 by committing an offence of cheating or fraud against the Plaintiff which is punishable under the relevant provision of law.

That the cause of action has arisen in favour of the Plaintiff when the defendant refuses to give monthly rental fees of the suit building to the Plaintiff and it continues till date as the defendant refuses to make payment of rental fees to the Plaintiff who has become the owner of the suit building vide order 11-05-2005 passed by the Sub District Council Court, Aizawl and Agreement dated 4-7-2003 duly executed by the Plaintiff and Shri Lalthakima. That the Hon'ble Court has pecuniary and territorial jurisdiction to entertain, try and dispose of the suit. That the instant suit is filed bona fide and for the ends of justice.

The Plaintiff therefore prays that

- (a) Let a decree be passed declaring that the Plaintiff is entitled to receive Rs 8,000/- as rental fees per month from the defendant commencing from the month of May, 2004 till date.
- (b) Let a decree be passed declaring that the Plaintiff is the legal and lawful owner of land and building covered by LSC No 61/70 and for peaceful possession of the suit building.
- (b) Let the cost of the suit be decreed in favour of the Plaintiff against the defendants

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- (c) Let any other relief to which the Plaintiff is entitled according to Justice, Equity and Good Conscience be decreed in favour of the Plaintiff.

On the other hand, the defendant contested against the instant suit by filing her written statement challenging amongst others that there is no cause of action, reason, or justification for filing the suit against the answering defendant as she is unnecessarily arraigned in the instant suit and that the suit is not maintainable in its present form and style and the suit is barred for want of jurisdiction and no value of the suit has been fixed in the plaint nor any amount of court fees has been paid by the plaintiff whereby section 14 of the Mizoram Civil Court Act, 2005 has been violated and as such the suit should be dismissed. The defendant further stated that as the plaint does not disclose the value of the subject matter of the suit for the purposes of the jurisdiction and of court fees and as such the Order VII Rule (f) of the CPC, 1908 has been violated in presenting the plaint before this court and therefore this court has no jurisdiction to try the suit and the suit should be dismissed. That the suit is hit by section 14 of the Mizoram (Land Revenue) Act, 1956 as without proper transfer from the Revenue Department, the alleged sale is not valid and as such Annexure III, the alleged sale deed (Agreement) is void and no flow of title is emerged from the said alleged sale deed. And that the appropriate stamp duty on the alleged sale deed has not been paid nor it was registered with the Registrar of documents as notified by the Government of Mizoram, Department of Law & Judicial, Aizawl vide Memo No.H.12017/24(ii)/95-LJD dated 5th June, 1997 including the fees structure published by Notification dated 1st April, 1997 vide Memo No.H.12017/24/95-LJD whereby the alleged sale deed become void and as such the alleged claims made in the plaint is not tenable in the eye of laws thereby the suit of the plaintiff should be dismissed for want of not following the procedure established by law under the aforesaid two Government Notifications.

On the basis of pleadings of the parties, the following issues were framed :-

1. Whether this court has jurisdiction to try the suit ?
2. Whether the plaintiff is exempted from payment of court fees as per the rate and scale applicable under the Court Fees (Mizoram Amendment) Act, 1996 ?
3. Whether the plaintiff is entitled to the reliefs claimed by them? If so, to what extend?

The Plaintiff has produced two witnesses namely, Rev H. Vanlaltlana and Rev Chhunglawma while the defendant examined the defendant, Lallianpuii as witness.

Issue No 1, *Whether this court has jurisdiction to try the suit ?* Although the Counsel of the Defendant insisted on the issue of jurisdiction, nothing is mentioned about the instant issue in his written argument. In fact, the Plaintiff has filed the present Civil Suit against the defendant for recovery of rental fees of Rs 8000/- per month with effect from the month of May, 2004 till date and

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for declaration that the Plaintiff is the legal and lawful owner of land and building covered by LSC No 61/70 and for peaceful possession of the suit building and any other relief to which the Plaintiff is entitled according to Justice, Equity and Good Conscience. First of all, the land and building covered by LSC No 61/70 is located at Khatla, Aizawl which is well within the territorial jurisdiction of this court while the rival parties are residents of Aizawl. Besides this, there is no pecuniary limit for the court of Senior Civil Judge as per the Mizoram Civil Courts Act, 2006. In such a situation, I am of my considered view that this court has pecuniary and territorial jurisdiction to entertain and try the instant suit. Hence, the issue no 1 is decided in favour of the Plaintiff.

Issue No 2 *Whether the plaintiff has paid sufficient court fees as per the rate and scale applicable under the Court Fees (Mizoram Amendment) Act, 1996 ?* With regards to the Issue No 2, both counsels of the parties agreed that the Plaintiff is not exempted for payment of court fees as per the Court Fees (Mizoram Amendment) Act, 1996. Accordingly, the Plaintiff has deposited court fees amounting to Rs 11,000/- (Rupees Eleven Thousand) only as essentially required by the relevant provision on 10-01-2012 and the same is kept with the case record. Hence, the present issue is no longer required to be decided as the Plaintiff has fulfilled the legal requirement.

Issue No 3 *Whether the plaintiff is entitled to the reliefs claimed by them? If so, to what extend?* In order to prove their case, the Plaintiff produced two witnesses namely, Rev H.Vanlaltlana and Rev Chhunglawma before the court and exhibited documents duly submitted by them along with the plaint without any objection. The Plaintiff Witness No 1, Rev H.Vanlaltlana deposed that he was holding the post of General Superintendent, UPC of Mizoram having their General Headquarters' Office at Chaltlang, Aizawl while the defendant is a permanent resident of Peter Street, Khatla, Aizawl. That the defendant, Pi Lallianpuui borrowed an amount of Rs 4 lakhs from one Lalrivenga in the year 1996 and as she could not repay the said amount, the said Lalrivenga filed Money Suit against her and obtained a decree against the defendant. As a result, Lalrivenga filed an Execution Case which was registered as Execution Case No 12 of 1998 for an amount of Rs 10,00,000/- Thereafter, the Ld. Sub District Council Court in order to execute the decree attached the landed property covered by the said LSC No 61 of 1970 belonging to the defendant and passed an order for auction sale of the said property. Accordingly, there were 14 bidders for purchase of the same. That since all the 14 bidders had neither deposited their bid money nor enquired about the auction sale of the suit land and building, all the said bidders were informed to enquire about the auction sale of the landed property meant for auction if they were still interested. As a result, Shri Lalthakima was selected as the highest bidder by the Ld Sub District Council Court out of the 13 bidders who participated in the auction purchase of the said landed property of the defendant. In the meantime, the Plaintiff had displayed advertisement in the local newspaper in the beginning of the year, 2003 stating that a plot of land for establishment of their General Headquarters was required and interested person might contact with them in that connection. As a result, the defendant who had decided to take advantage of the situation, contacted with them and apprised them of her predicament saying that her land and building covered by LSC No 61/70 had to be auctioned for clearance

of her financial liability amounting to Rs 10 lakhs. The defendant had, therefore, earnestly requested them to purchase her said land and building covered by LSC No 61/70. That on the request of the defendant, the defendant and the Plaintiff had duly executed Deed of Agreement dated 28-05-2003 before the Magistrate of the First Class and three reliable witnesses in connection with the land and building covered by LSC No 61 of 1971. In fact, there are five terms and conditions laid down in the said Agreement and both parties were bound to abide by them. Accordingly, the Plaintiff gave Rs 10,00,000/- to the defendant for bidding the auctioned house in her name. However, the defendant bade in the name of one Lalthakima in violation of their said agreement. On enquiry from the defendant, the defendant stated that it was beyond her knowledge that the Court had given the land and building in the name of said Lalthakima. And when the defendant was asked if she had spent Rs 10,00,000/- for bidding the auction in the name of Lalthakima, the defendant admitted and replied in affirmative. Further, the defendant refused to divulge the proper address of the said Lalthakima. Then the Plaintiff were beginning to realize that the defendant had failed to abide by the terms and conditions of their agreement as she had deliberately deceived the them. That since the defendant flatly refused to disclose the actual address of Lalthakima, the Plaintiff had made an intensive search and massive hunt on the unknown bidder who was said to be a Taxi driver by profession. They had somehow managed to locate him at his place of stay at Republic Veng, Aizawl. After having discussed the matter at length with him, Shri Lalthakima and they had made an agreement to the effect that if the defendant, Smt Lallianpuii had desired to get her land and building back she should give Rs 10 lakhs without interest to them within 50 days from the date of order dated 29-5-2003. Failing which the defendant should hand over the land and building to the Plaintiff, UPC of Mizoram. That since the defendant was not able to pay for the required amount of Rs 10 lakhs to the Plaintiff in compliance with the agreement aforementioned, Shri Lalthakima submitted an application dated 11-5-2005 to the Court concerned stating amongst others that the defendant was not able to pay for the said amount during the stipulated period of time granted to her and petitioned the court to take the LSC No 61/70 from the defendant and give it to the Plaintiff as per their agreement dated 4-7-2003 duly sworn before the court. As a result, the competent court passed an order dated 11-05-2005 directing the defendant, Smt Lallianpuii to hand over the LSC No 61/70 to the Plaintiff and vacate the disputed land and building on or before 25-05-2005. That the defendant submitted an application to the Plaintiff with a prayer that since she was unable to vacate the suit land and building within the stipulated period of time due to unavoidable resources and to allow her to occupy the suit land and building as tenant with effect from 15-1-2004 by paying monthly rental fees. As a result, the matter was discussed and considered by the Plaintiff and informed the defendant in writing that she was allowed to continue to occupy the suit land and building for a monthly rent of Rs 8000/- commencing from 15-1-2004. That in compliance with the agreement aforementioned, the defendant started occupying the land and building of the Plaintiff as tenant beginning from 15-1-2004. In fact, the defendant had paid rental fees w.e.f. the month of February, 2004 to April, 2004. The defendant has not paid rental fees for the month of May, June and July, 2004 while she paid Rs 5,000/- as part payment for the month of August, 2004 on 3rd August, 2004. Thereafter, the defendant has not made any payment of rental fees to the Plaintiff upto this date without showing

any reasonable cause or excuse. Hence, the Plaintiff wrote to the defendant vide Letter No.B.1011/2/03/UPC(MZ)/1 dated 1st October, 2004 informing her that since she failed to pay rental fees for several months, she should vacate the land and building on or before 20th October, 2004. That the defendant had handed over the LSC No 61 of 1970 to the Plaintiff on 28-9-2005 and also promised to vacate the land and building covered by the said LSC by November, 2005 if she could not pay Rs 10 lakhs. Unfortunately, the defendant was not able to pay Rs 10 lakhs even after the month of November, 2005. As a result, the competent court passed an order directing the defendant to vacate the land and building covered by LSC No 61 of 1970 within one month from the date of order dated 2-12-2005. It may be pertinent to mention that when the defendant was given 50 days to redeem her said land and building from the Plaintiff on 29-3-2003, the defendant had automatically forfeited her right after elapse of the said period. That the defendant had breached the agreement dated 28-5-2003 by committing an offence of cheating or fraud against them which is punishable under the relevant provision of law. That the cause of action has arisen in favour of the Plaintiff when the defendant refuses to give monthly rental fees of the suit building to them and it continues till date as the defendant refuses to make payment of rental fees to the Plaintiff who has become the owner of the suit building vide order dated 11-05-2005 passed by the Sub District Council Court, Aizawl and Agreement dated 4-7-2003 duly executed by the Plaintiff and Shri Lalthakima. That since no suit Valuer has been appointed by the Government of Mizoram till date, no suit valuation has been made in the plaint. However, taking into account the rental fees, the defendant is liable to pay for occupation of the land and building belonging to the Plaintiff and the value of the disputed land and building, the suit can be valued at Rs 25 lakhs. Besides this, the suit land and building is located at Khatla, Aizawl which is under the jurisdiction of the Hon'ble Court. Hence, the Hon'ble Court has pecuniary and territorial jurisdiction to entertain, try and dispose of the suit. The Plaintiff Witness No 1, Rev H. Vanlaltlana exhibited the following documents without any objection :-

Ext-P-1 is the Plaint submitted by him and Ext-P-1(a) & (b) are his signatures.

Ext-P-2 is a copy of order dated 5-5-'03 passed by the Magistrate, SDCC, Aizawl

Ext-P-3 is a copy of order dated 26-5-03 passed by the Magistrate, SDCC, Aizawl

Ext-P-4 is a copy of Agreement duly executed by Pi Lallianpuui and the Mizoram U.P.C. General Headquarters, Aizawl

Ext-P-5 is a copy of Agreement made by the Mizoram UPC and Shri Lalthakima.

Ext-P-6 is a copy of application submitted by Lalthakima for seizure of LSC No 61/70

Ext-P-7 is a copy of order dated 11-5-2005 passed by the Magistrate, SDCC, Aizawl

Ext-P-8 is a copy of Application submitted by Lallianpuui Sailo to the Superintendent, UPC of Mizoram for renting the land and building of the UPC of Mizoram.

Ext-P-9 is a Letter dated 13-1-04 written by the General Secretary, Mizoram UPC to the Defendant, Lallianpuui.

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Ext-P-10 is a copy of Letter dated 1-10-04 written by the General Secretary, Mizoram UPC to the Defendant.

Ext-P-11 to Ext-P-14 are receipts for rental fees from Lallianpuui.

Ext-P-15 is a copy of Application for extension of time for payment of Rs 10 lakhs by the Defendant, Lallianpuui.

Further, the Plaintiff Witness No 2, Rev Chhunglawma also stated on oath in support of the Plaintiff and reiterated that the defendant, Pi Lallianpuui borrowed an amount of Rs 4 lakhs from one Lalrivenga in the year 1996 and as she could not repay the said amount, the said Lalrivenga filed Money Suit against her and obtained a decree against the defendant. As a result, Lalrivenga filed an Execution Case which was registered as Execution Case No 12 of 1998 for an amount of Rs 10,00,000/- Thereafter, the Ld. Sub District Council Court in order to execute the decree attached the landed property covered by the said LSC No 61 of 1970 belonging to the defendant and passed an order for auction sale of the said property. Accordingly, there were 14 bidders for purchase of the same. That since all the 14 bidders had neither deposited their bid money nor enquired about the auction sale of the suit land and building, all the said bidders were informed to enquire about the auction sale of the landed property meant for auction if they were still interested. As a result, Shri Lalthakima was selected as the highest bidder by the Ld Sub District Council Court out of the 13 bidders who participated in the auction purchase of the said landed property of the defendant. That in the meantime, the Plaintiff had displayed advertisement in the local newspaper in the beginning of the year, 2003 stating that a plot of land for establishment of their General Headquarters was required and interested person might contact with them in that connection. As a result, the defendant who had decided to take advantage of the situation, contacted with them and apprised them of her predicament saying that her land and building covered by LSC No 61/70 had to be auctioned for clearance of her financial liability amounting to Rs 10 lakhs. The defendant had, therefore, earnestly requested them to purchase her said land and building covered by LSC No 61/70. That on the request of the defendant, the defendant and the Plaintiff had duly executed Deed of Agreement dated 28-05-2003 before the Magistrate of the First Class and three reliable witnesses in connection with the land and building covered by LSC No 61 of 1971. In fact, there are five terms and conditions laid down in the said Agreement and both parties were bound to abide by them. Accordingly, the Plaintiff gave Rs 10,00,000/- to the defendant for bidding the auctioned house in her name. However, the defendant bade in the name of one Lalthakima in violation of their said agreement. On enquiry from the defendant, the defendant stated that it was beyond her knowledge that the Court had given the land and building in the name of said Lalthakima. And when the defendant was asked if she had spent Rs 10,00,000/- for bidding the auction in the name of Lalthakima, the defendant admitted and replied in affirmative. Further, the defendant refused to divulge the proper address of the said Lalthakima. Then the Plaintiff were beginning to realize that the defendant had failed to abide by the terms and conditions of their agreement as she had deliberately deceived the Plaintiff. That since the defendant flatly refused to disclose the actual address of Lalthakima, they had made an intensive search and massive hunt on the unknown bidder who was said to be a Taxi driver by profession. They had somehow managed to locate him at his place of stay at Republic Veng, Aizawl. After having

discussed the matter at length with him, Shri Lalthakima and the Plaintiff had made an agreement to the effect that if the defendant, Smt Lallianpuui had desired to get her land and building back she should give Rs 10 lakhs without interest to the Plaintiff within 50 days from the date of order dated 29-5-2003. Failing which the defendant should hand over the land and building to the Plaintiff, UPC of Mizoram. That since the defendant was not able to pay for the required amount of Rs 10 lakhs to the Plaintiff in compliance with the agreement aforementioned, Shri Lalthakima submitted an application dated 11-5-2005 to the Court concerned stating amongst others that the defendant was not able to pay for the said amount during the stipulated period of time granted to her and petitioned the court to take the LSC No 61/70 from the defendant and give it to the Plaintiff as per their agreement dated 4-7-2003 duly sworn before the court. As a result, the competent court passed an order dated 11-05-2005 directing the defendant, Smt Lallianpuui to hand over the LSC No 61/70 to the Plaintiff and vacate the disputed land and building on or before 25-05-2005. That the defendant submitted an application to the Plaintiff with a prayer that since she was unable to vacate the suit land and building within the stipulated period of time due to unavoidable resources and to allow her to occupy the suit land and building as tenant with effect from 15-1-2004 by paying monthly rental fees. As a result, the matter was discussed and considered by them and informed the defendant in writing that she was allowed to continue to occupy the suit land and building for a monthly rent of Rs 8000/- commencing from 15-1-2004. That in compliance with the agreement aforementioned, the defendant started occupying the land and building of the Plaintiff as tenant beginning from 15-1-2004. In fact, the defendant had paid rental fees w.e.f. the month of February, 2004 to April, 2004. The defendant has not paid rental fees for the month of May, June and July, 2004 while she paid Rs 5,000/- as part payment for the month of August, 2004 on 3rd August, 2004. Thereafter, the defendant has not made any payment of rental fees to the Plaintiff upto this date without showing any reasonable cause or excuse. Hence, the Plaintiff wrote to the defendant vide Letter No.B.1011/2/03/UPC(MZ)/1 dated 1st October, 2004 informing her that since she failed to pay rental fees for several months, she should vacate the land and building on or before 20th October, 2004. That the defendant had handed over the LSC No 61 of 1970 to the Plaintiff on 28-9-2005 and also promised to vacate the land and building covered by the said LSC by November, 2005 if she could not pay Rs 10 lakhs. Unfortunately, the defendant was not able to pay Rs 10 lakhs even after the month of November, 2005. As a result, the competent court passed an order directing the defendant to vacate the land and building covered by LSC No 61 of 1970 within one month from the date of order 2-12-2005. It may be pertinent to mention that when the defendant was given 50 days to redeem her said land and building from the Plaintiff on 29-3-2003, the defendant had automatically forfeited her right after elapse of the said period. That the defendant had breached the agreement dated 28-5-2003 by committing an offence of cheating or fraud against the Plaintiff which is punishable under the relevant provision of law. That the cause of action has arisen in favour of the Plaintiff when the defendant refuses to give monthly rental fees of the suit building to the Plaintiff and it continues till date as the defendant refuses to make payment of rental fees to the Plaintiff who has become the owner of the suit building vide order 11-05-2005 passed by the Sub District Council Court, Aizawl and Agreement dated 4-7-2003 duly executed by the Plaintiff and Shri Lalthakima.

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On the other hand, the defendant, Lallianpuui as witness deposed before the court that she is the owner of the land and building covered by the LSC No 61 of 1970 which is situated at Peter Street, Khatla, Aizawl. As per the written statement filed by her on 8th day of December, 2008 her stand was that the suit of the plaintiff is hit by section 14 of the Mizoram (Land Revenue) Act, 1956 as no transfer has been affected because of no sale deed was executed and the Agreement dated 28th May, 2003 is void when no flow of title has been emerged from the said defective agreement dated 28th May 2003. The Defendant Witness stated that the said Agreement dated 28th May, 2003 was not on appropriate stamp duty and therefore the agreement cannot be termed as absolute sale of her landed property and the said Agreement dated 28th May, 2003 was not registered with the Registrar of documents as notified by the Government of Mizoram, Department of Law and Judicial, Aizawl issued under Memo.No.12017/24(ii)/95-LJD dated 5th June, 1997 whereby the alleged sale deed is void and no benefit may be derived from the said defective title and as per the alleged agreement the plaintiff was supposed to pay me an amount of Rs 10,00,000/- in 2 installments but no such amount was paid rather the plaintiff was receiving an amount of Rs 8000/- per month collected them directly from her tenants and gave her receipts for about 6 months. The defendant witness further stated that the suit brought by the plaintiff for declaring the legal and lawful ownership including giving possession of the land and building covered by the LSC No.61 of 1970 is not valid and legal due to non filing the same under the provision of the Specific Relief Act, 1963 and prays to dismiss the suit and pass order directing the plaintiff to return her land documents of LSC No 61 of 1970 as per provision of the Specific Relief Act, 1963 as the agreement executed by the plaintiff has become null and void due to essence of time.

After hearing the rival counsels and also on perusal of the materials available on records, it is evident that the suit land and building covered by LSC No 61 of 1970 belonging to the Defendant, Smt Lallianpuui was auctioned by the Subordinate District Council Court, Aizawl in Execution Case No 12/98 and Shri Lalthakima of Republic Mual Veng, Aizawl was found to be the highest bidder amongst the 13 bidders and the said competent court handed over the land and building covered by LSC No 61 of 1970 vide Order dated 26-5-2003 passed by the Magistrate First Class, Sub-District Council Court, Aizawl (Ext. P-3). It is further revealed that the Defendant, Lallianpuui has neither preferred an appeal nor filed a review against the said order till date. This clearly indicated that the suit land and building covered by LSC No 61 of 1970 is no longer the landed property of the defendant, Smt Lallianpuui. Thereafter, the Defendant, Smt Lallianpuui was afforded reasonable opportunity by the Plaintiff, Mizoram UPC and Shri Lalthakima to redeem her said land and building covered by LSC No 61 of 1970 vide Ext. P-5 (MIZORAM UPC LEH LALTHAKIMA INREMNA). Unfortunately, the Defendant, Smt Lallianpuui has failed to avail the opportunity without any reasonable cause or excuse. Since the bidder's price of Rs 10 lakhs was offered and given by the Plaintiff, UPC of Mizoram, the successful auction bidder, Shri Lalthakima submitted application to the Magistrate, Sub-District Council Court, Aizawl (Ext.P-6) for handing over the peaceful possession of the land and building covered by LSC NO 61 of 1970. As a result, the said Court passed an order dated 11-05-2005 (Ext.P-7) directing the Defendant Lallianpuui to vacate the suit land and building on or before 25-05-2005. As a result, the

Defendant, Smt Lallianpuii submitted a prayer in writing to the Plaintiff for renting the suit land and building as she was willing to pay the monthly rental fees duly fixed by them.(Ext.P-8) As a result, the Plaintiff considered the application of the Defendant and allowed her to rent the building at the rental fees of Rs 3000/- per month and all other tenants should also deposit their rental fees to the General Treasurer, Mizoram U.P.C. (Ext.P-9 and Ext.P-10). Hence, the Defendant, Lallianpuii made payment of Rs 8,000/- as rental fees vide Receipt No 612 dated 16-4-2004(Ext.P-11), Receipt No 676 dated 16-3-2004(Ext.P-12), Receipt No 372 dated 10-2-2004 (Ext.P-13) and Receipt dated 3-8-2004 (Ext.P-14). Thereafter, the Defendant submitted an application for extension of time for payment of Rs 10,00,000/- (Rupees ten lakhs)only till the expiry of the month of November, 2005. Failing which the Defendant had promised to vacate the suit land and building and the Defendant as witness on cross examination by the Plaintiff's counsel admitted that she had testified her signature as Ext.P-15(a).

On careful examination of the evidences of the witnesses of the parties, it is crystal clear that the Defendant has not only admitted all the documents duly exhibited by the Plaintiff Witness but also confirmed her signatures which appeared in Ext P-4 and Ext.P-15. Although the Defendant has fully accepted on cross examination by the Plaintiff's counsel the fact that Ext P-4 is the Deed of Agreement made by the Plaintiff and her and also testified her signature as Ext P-4(a) while the Defendant admitted that Ext. P-11 to Ext.P-14 are receipts for payment of rental fees by her to the Plaintiff for renting the suit building, the Ext.P-4 (Agreement between the Plaintiff and the Defendant on 28-05-2003) cannot be taken into consideration partly due to non-payment of requisite stamp duty and non-registration with the District Registrar under Section 6 of the Registration Act, 1908 and mainly owing to breach of agreement by the Defendant herself in not bidding the auction in her name with mala fide intention. Even otherwise also, the Defendant deposed that she had also paid huge amount of rental fees to the Plaintiff without taking receipts. In view of all these, it is crystal clear that the Defendant is merely a tenant in the land and building covered by LSC No 61 of 1970 after the competent court auctioned the same and handed over to Shri Lalthakima vide Ext.P-3 (Order dated 26-5-2003). It is further revealed that the successful auction bidder, Shri Lalthakima has handed over the LSC No 61 of 1970 to the Plaintiff who had paid Rs 10,00,000/- for bidding the auctioned LSC No 61 of 1970 vide Ext.P-7. Above all, the Defendant, Lallianpuii has fully accepted the ownership of the Plaintiff in respect of the suit land and building covered by LSC No 61 of 1970 by paying the rental fees to the Plaintiff and occupies the room as merely tenant. Hence, the Issue No 3 is decided in favour of the Plaintiff.

In view of the findings in all the issues, I am of my considered opinion that the Defendant, Smt Lallianpuii has no legal or moral right to continue to occupy the suit land and building covered by LSC No 61 of 1970 any longer and liable to be evicted therefrom. As such, the Defendant, Lallianpuii is hereby directed to vacate the suit land and building covered by LSC No 61 of 1970 within 60 days from the date of this order. Further, the Director, Land Revenue & Settlement Department is requested to get the ownership of LSC No 61 of 1970

transferred in the name of the Plaintiff, General Superintendent, UPC of Mizoram who may fill up necessary forms for transfer of the ownership of the LSC and submit along with a copy of this Judgement and Decree to the concerned authority. Regarding the rental fees for the suit building, it is evident that the Defendant is liable to pay monthly rental fees of Rs 8,000/- to the Plaintiff commencing from the month of May, 2004 till the month of January, 2012 amounting to Rs 11,56,000.00 as rightly claimed by the Plaintiff. However, I am inclined to show, rightly or wrongly, leniency upon the Defendant who is an old woman having no income of her own on humanitarian ground that she should be exonerated the entire rental fees of Rs 8000/- per month with effect from the month of May, 2004 till date.

With the above, the instant suit is allowed and disposed of accordingly. Parties are to bear their respective costs.

Given under my hand and seal of this court on this date the 24th February, 2012

Sd/- R.VANLALENA,MJS
Senior Civil Judge
Aizawl District, Aizawl

Memo No /SCJ(A)/2012, Dated Aizawl, the 24th February, 2012.

Copy to :

- 1) The District and Sessions Judge, Aizawl District, Aizawl.
- 2) The U.P.C of Mizoram (Represented by the Rev H.Vanlaltlana, General Superintendent, UPC of Mizoram)
- 3) Smt Lallianpuui, Peter Street, Khatla, Aizawl Mizoram
- 4) Shri L.H.Lianhrima Advocate
- 5) Shri M.M.Ali Advocate
- 6) Registry Section
- 7) Case Record
- 8) J.O.Book

P E S KER