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

Damage Suit No.3/2011

Vanlalsiama
S/o P.T.Lama,
R/o Chawngpui Veng,
SPO:Tlabung, Lunglei District,
Mizoram. .....Plaintiff.

-Versus-

1. The State of Mizoram,
   Through the Chief Secretary to the Govt. of Mizoram.
2. The Secretary to the Govt. of Mizoram
   Revenue Department, Aizawl.
3. The Deputy Commissioner/Collector,
   Lunglei District, Lunglei, Mizoram.
4. The Revenue Officer (ASO-I)
   Lunglei District, Lunglei, Mizoram.
5. The Secretary to the Govt. of India,
   Surface Transport Department, New Delhi.
6. The Director General, Boarder Road Organisation (BRO),
   New Delhi.
7. The Chief Engineer, 23rd BRTF,
   Project Pushpak C/o 99 APO.
8. The Commander, 23nd BRTF,
   C/o 99 APO, Tawipui 'N'
9. The Officer Commanding, 72 RCC
   (GREF) C/o 99 APO. .....Defendant.

BEFORE

R.VANLALENA, Senior Civil Judge-2

For the Plaintiff : Shri R.Thangkanglova, Advocate.
For the Defendants: AGAs
S.N.Meitei
Date of Judgement: 24.2.2012.

JUDGEMENT AND ORDER

16.2.2012

Ld. Counsels for all parties present.

Today is fixed for hearing on maintainability/preliminary objection in the present suit.

Ld. Counsel Shri R.Thangkanglova on behalf of the plaintiff submitted that the present suit may be maintained on the ground that the defendants are residing in Aizawl District within the jurisdiction of this court. The plaintiff has a liberty to choose the court in which he may file the suit as the defendants are resident of Aizawl District Court, hence suit may be maintained for further proceeding as per law. He added that the cause of action arose within Lunglei District Court but the assessment of damage and its consequential reliefs were made by joint verification of the defendant No.5 and the defendant No.3. The defendant No.5 represented by the Officer Commanding, 72 RCC, C/o 99 APO had agreed to disburse the compensation to the plaintiff. Hence, the suit is maintained in its form.

On the other hand, Shri S.N.Meitei and Smt. Lily Parmawii Hmar Ld.AGA submitted that the present suit is not maintainable on the following points on the question of territorial jurisdiction.

1) The cause of action arose within Lunglei District Court.
2) The plaintiff and the defendant No.3,4,58&9 are residents of Lunglei District.
3) The subject matter of the suit i.e. immovable proper is situate within Lunglei District Court.
4) The plaintiff has not deposited adequate amount of court fees.

The ld. Counsels added that the present suit is liable to be dismissed outright on the point of limitation stating that the cause of action arose in the year 1996 i.e. 15 years back and the present suit is instituted in the year 2011 which means that the suit has been barred by limitation.

On the point of limitation, the ld. Plaintiff's counsel contended that the cause of action arose no doubt in the year 1996 yet the plaintiff had made several correspondences with the defendants for compensation which helped the suit that it is not barred by limitation as the said correspondences had continued till the year 2005.

I have heard both the counsels and considered their respective arguments. I have also perused the materials available on record. The present suit being a damage suit, the limitation period as per the law is three years. The present damage suit was filed in the month of September, 2011 white cause of action had arisen in the year 1996. In considering the point of limitation, it appeared to me that the present suit is filed after lapsed of more than three years.

In the result, this court has no other option, but to dismiss the present suit on the point of limitation.

Accordingly, the present suit stands dismissed.

Give copy of this order to all concerned.

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

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

Copy to:

1. The District and Sessions Judge, Aizawl District, Aizawl, Mizoram for information.
2. Vanlalsiama, S/o P.T.Lama, R/o Chawngpui Veng, SPO:Tlabung, Lunglei District, Mizoram.
3. The State of Mizoram, Through the Chief Secretary to the Govt. of Mizoram through AGAs.
4. The Secretary to the Govt. of Mizoram, Revenue Department, Aizawl through AGAs.
5. The Deputy Commissioner/Collector, Lunglei District, Lunglei, Mizoram through AGAs.
6. The Revenue Officer (ASO-I), Lunglei District, Lunglei, Mizoram through AGAs.
7. The Secretary to the Govt. of India, Surface Transport Department, New Delhi through counsel Shri S.N.Meitei.
8. The Director General, Boarder Road Organisation (BRO), New Delhi through counsel Shri S.N.Meitei.
9. The Chief Engineer, 23rd BRTF, Project Pushpak C/o 99 APO through counsel Shri S.N.Meitei.
10. The Commander, 23nd BRTF, C/o 99 APO, Tawipui 'N' through counsel Shri S.N.Meitei.
11. The Officer Commanding, 72 RCC (GREF) C/o 99 APO through counsel Shri S.N.Meitei.
12. Registry Section.
13. Case record.

PESHKAR