

Eviction Suit No.5/2011

R.Lalramfawna,
S/o R. Vanlalruala (L)
Muallungthu Kawn Veng.

.....Plaintiff.

-Versus-

1. K.Lalhmanngaiha
S/o Sapchhuaka,
Muallungthu Quarter Veng.
2. Lalhmingthanga
H/o Sawmliani,
Muallungthu quarter Veng.

.....Defendants.

BEFORE
R.VANLALENA, Senior Civil Judge-II

For the Plaintiff :

For the Defendants: Shri W.Sam Joseph & ors, Advocates.

Date of Judgement: 23.1.2012

JUDGEMENT

1. This is an Eviction Suit filed by Shri R.Lalramfawna S/o R.Vanlalruala (L) resident of Muallungthu village praying this court to pass an order for Eviction of the two defendants namely Shri K.Lalhmanngaiha S/o Sapchhuaka and Shri Lalhmingthanga H/o Sawmliani, both resident of Muallungthu village from alleged illegal enjoyment of this land covered by Periodic Patta No.152 of 1995.

2. The facts of the case as alleged by the plaintiff/petitioner is that after the death of his father, he inherited a land at Herhse Ngaw, Muallungthu covered by P.Patta No.152 of 1995 and obtained an Heirship Certificate in respect of this land from concerned authority.

3. The plaintiff stated in his plaint that without his consent, the defendants cleared the land for jhum cultivation. He informed the defendants to stop clearing the land but to no avail. He then reported the matter to the Village Council and the Village Council concerned informed the defendants to stop their clearing jungle/land for jhum cultivation. Ignoring and disobeying the order of the Village Council authority, the two defendants further developed the said land and thus planted Banana, Zawnghah, Ginger etc. on the said disputed land.

4. Due to the willful non-compliance of the order of the Village Council authority by the defendants, the plaintiff thereafter approached the authority of Land Revenue & Settlement Department, Aizawl to take action against the defendants. The said authority then detailed one Surveyor Shri Zohranga to survey and verify the land and boundary of the plaintiff on 2.5.2011. On the basis of the report of the said Surveyor, the department of Land, Revenue & Settlement Department issued an order directing the defendants to move out of the disputed

land and to abandon the ongoing clearing of the land. As per the said order Vide No.R.15014/18/88-DC(A)/104 dated 24th May, 2011, the defendants have no Pass to claim and maintain the disputed land. As the defendants have no rights over the disputed land, the plaintiff prayed this court to pass an order for eviction of the two defendants as they still continue to encroach upon his land.

5. During the course of proceeding, the court gave sufficient time to defendants for filing their written statement of their defence on the following dates- 8.9.2011, 5.10.2011, 4.11.2011, 9.1.2012 but failed to submit the same nor the defendants appeared in court nor through Advocates. This court thus ordered that the suit be proceeded ex-parte. The plaintiff submitted his evidence on 23.01.2012.

6. As per the evidence of the plaintiff, his father died on 17.9.2010. After the death of his father, he inherited a Periodic Patta No.152 of 1995 located at Herhse Ngaw within Muallungthu village area and thus obtained Heirship Certificate in respect of the said land with the consent of his brothers and sisters. During the lifetime of his father and in the year 1970, the said land was developed for rice cultivation. The following year, they cultivated and planted oranges, but the said planted oranges were burnt down by a fire which originated from the jhum burning of Pu Thankunga Falkawn. After this, the plaintiff's family planted jackfruit, Zawngtah, Ginger etc. on a certain portion of the said land. The remaining portion of the land was naturally developed itself into a thick woods and became fertile for rice cultivation.

7. In the year 2011, without the consent of the plaintiff, the two defendants cleared the said land. The plaintiff went to the house of both the defendants and told them to stop clearing the land as the said land was covered by his P.Patta No.152 of 1995. But the two defendants did not pay heed to the plaintiff and continued the jungle clearing of land. The plaintiff thereafter approached the authority of the Village Council Muallungthu for action against the two defendants. In spite of the order of the said Village Council Court, the two defendants still continued to clear the land. The plaintiff then approached the Land, Revenue and Settlement Department, Mizoram and submitted complaints against the two defendants. The said Department detailed one Surveyor namely Zohranga on 11.5.2011 to verify the matter. It was verified that the two defendants have no Pass/permit to utilize the said land and were orally ordered to move out of the disputed land.

8. The said Surveyor submitted his verification report to the concerned authority. On the basis of this report, the authority of Land, Revenue & Settlement Department issued an order directing the two defendants to stop the clearing of the land for cultivation. The said order mentioned that the two defendants did not possess any Pass (permit) to claim the land and engaged themselves in clearing the land for cultivation. It further mentioned that in case of disobedience to the said order, legal action be taken against them. The said letter of order is annexed as Exhibit No.II Vide No.R.15014/18/88-DC(A)/104 dated 24th May, 2011.

9. In spite of the order of the concerned authority, the two defendants still continued to claim the land and engaged themselves in burning the land and planting banana, ginger etc. The plaintiff therefore claimed compensation from the two defendants for damage caused to his land amounting to Rs.2,50,000/- (Rupees two lakhs, fifty thousand) only. As the disputed land was covered with dense woods, the plaintiff claimed such amount as the two defendants had destroyed and burned down thousands of trees within his land.

10. Taking into consideration of the evidence of the plaintiff that he had resisted the action of the two defendants by verbal intimation and warning, it could be seen that the two defendants show their muscle power. From the evidence of plaintiff, it could be seen that the authority of Village Council Court ordered the

two defendants to stop their wrongful action on the land of the plaintiff. It is also seen from the evidence that the concerned authority (Land, Revenue & Settlement Department) had made it clear that the two defendants have no pass (permit) to claim the disputed land as their own and to develop and manage it. The said letter of order was annexed as Exhibit-II. The plaintiff annexed a photo copy of his P.Patta No. 152 of 1995 which is marked as Exhibit No-II, and further annexed a photo copy of his Heirship Certificate in respect of the said disputed land which is marked as Exhibit No.III.

11. From the appreciation of evidence of the plaintiff, it is revealed that the said disputed land had been inherited by the plaintiff from his late father for which he had obtained an Heirship Certificate from concerned authority. It is also revealed that the disputed land is wrongfully encroached by the two defendants which was evidenced from the order of the Land, Revenue and Settlement Department, Aizawl. And further proved that the defendants disobeyed the order of the concerned authority which directed them to abstain from wrongful action of the said land.

12. In the light of the evidence of the plaintiff, this court has come to conclusion to pass a judgement and order as follows:

ORDER

The Defendants-(1) K.Lalmangaiha S/o R.Vanlalruala (L) and (2) Lalhmingthanga H/o Sawmliani, both resident of Muallungthu, Quarter Veng shall pay Rs.2,00,000/-(Rupees two lakhs) only to the plaintiff as a compensation for wrongful encroachment on the land of the plaintiff by clearing it for jhum cultivation inspite of the repeated resistance from the plaintiff. This amount shall be paid into this court directly within a period of two months from the date of this order.

The defendants are also directed to keep themselves away from the land of the plaintiff. Any fruit bearing trees, plants etc. planted in the said land by the defendants shall henceforth belong to the plaintiff.

With this order the present suit stands disposed of.

Give copy of this order to all parties.

Sd/-R.VANLALENA

Senior Civil Judge – II

Aizawl District : Aizawl.

Memo No. /SCJ-II(A)/2012: Dated Aizawl the 23rd January, 2012.

Copy to:

1. The District and Sessions Judge, Aizawl District, Aizawl for information.
2. R.Lalramfawna, S/o R.Vanlalruala (L) Muallungthu Kawn Veng, Mizoram
3. K.Lalmangaiha, S/o Sapchhuaka, Muallungthu Quarter Veng, Mizoram.
4. Lalhmingthanga H/o Sawmliani, Muallungthu quarter Veng, Mizoram.
5. Shri W.Sam Joseph & ors., Advocate concerned.
6. Registry Section.
7. Case record.

