

**IN THE COURT OF THE SENIOR CIVIL JUDGE, AIZAWL DISTRICT,
AIZAWL MIZORAM
Money Suit No.54/2010**

Lalthlani
D/o RK Lalduha
R/o Sihphir VenglaiPlaintiff.

-Versus-

Lalzikpuii Hnamte
W/o Lalhlimthanga
Bawngkawn, Lunglei Road,
Aizawl.Defendant.

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

For the Plaintiff : Shri Lalremtluanga, Advocate.

For the Defendants:

Date of Judgement: 10.7.2012.

JUDGEMENT AND ORDER

10.7.2012

The facts of the case leading to the filing of the instant Money Suit No.54 of 2010 may be stated briefly as follows:

The plaintiff is a citizen of India belonging to Mizo Community and is presently residing at Sihphir Venglai, Aizawl District, Mizoram.

The defendant had borrowed Rs.3,00,000/- (Rupees three lakhs) from the plaintiff on 03.10.2007 to be repaid with interest @ 7% per month within a period of 2 (two) months from the date of borrow i.e. 03.10.2007 for which the defendant and the plaintiff had made an Agreement on the same day attested by two witnesses. As per the said Agreement, the defendant was to repay the borrowed money (loan) in full with interest @ 7% per month within the period of two months or on 03.12.2007.

The defendant some how has paid Rs.52,500/- to the plaintiff in within a short period of time thereafter. The defendant lately repaid the interest on two installments of Rs.5500/- on 17.06.2009 and Rs.5000/- on 24.08.2009 without repaying the principal amount. The defendant even after the lapsed of two years, she still failed to repay the loan money. She therefore made an Indemnity bond on 16.05.2009 that she would regularly repay the loan to the plaintiff from the month of May 2009 on monthly equal installments of Rs.5500/- and further binds herself that if she failed to do so, the plaintiff would be at liberty to take necessary actions against her under the law. Despite the Agreement and the Indemnity Band made, the defendant still failed to repay the loan although she is holding a post of UDC with the Information & Public Relations Department, Government of Mizoram with her husband being an Assistant with the Secretariat

Administration Department, Mizoram. The defendant had left Rs.2,47,500/- unrepaid balance on the principal amount and 7% interest on it till date. The cause of action arose on 03.10.2007 and on 03.12.2007 and still arises till date.

The plaintiff has deposited Rs.14/- as court fee at the time of institution of this suit and later deposited the remaining requisite amount of court fees of Rs.....

Since the parties are residents of Aizawl District, this court has a territorial jurisdiction to try the suit. The claim amount being more than rupees two lakhs, this court has a pecuniary jurisdiction to try the suit.

The instant suit is filed bonafide and for the ends of justice.

The plaintiff prayed the following reliefs :

- 1) A decree declaring that the defendant had borrowed Rs.3,00,000/- from the plaintiff on 03.10.2007 carrying 7% interest per month to be paid within two months from the date of borrow of the money.
- 2) The defendant has failed to repay the said borrowed money in contravention of the Agreement signed by him and the plaintiff with their witnesses and also the Indemnity bond made by the defendant.
- 3) A decree declaring that the Defendant is liable to repay Rs.2,47,500/- with interest @ 7% per month w.e.f. 03.12.2007 to the plaintiff.
- 4) Any other relief to which the plaintiff is entitled according to Justice, Equity and Good conscience.

During the course of this suit, the defendant had been summoned by this court which was served by the plaintiff revealed that the defendant had received notice/summons to appear and take steps for their defence. The defendant had engaged a lawyer Shri Lalawmpuia Ralte and filed the vakalatnama duly executed on 29.07.2011. However, the defendant failed to filed his written statement within a period of 5(five) months after duly engaged a lawyer. This court passed an order dated 19.01.2012 by which the defendant had been precluded and his chance for filing the written statement had been closed due to his failure to filed the same within a statutory period of time. The court further order the case to be proceeded further in absence of written statement. Accordingly, the case had been proceed further without written statement.

The plaintiff therefore filed examination in chief on affidavit on 15.03.2012 of Pw 1. Chance for cross examination of Pw 1 was given to the defendant fixing dt.10.04.2012. However, the defendant without assigning any reason failed to appear in court on that day. Hence, chance for cross examination of Pw 1 stood closed thereafter.

In spite of the fact that the defendant failed to file his written statement within a sufficient time and further did not turn up to cross examination the Pw 1, this court felt it imperative to peruse the materials available on records. On careful perusal of the annexed documents particularly Agreement dated 03.10.2007 and INTIAMKAMNA dated 16.05.2009 made by the defendant, it has been found that both the documents have been properly attested by two witnesses each. The court therefore decided to regard the two documents as genuine, valid and admissible as evidence in law. The court has come to a conclusion to decide the suit in favour of the plaintiff and thus an ex-parte decree has been passed as below :-

The defendant Lalzikpuii Hnamte is hereby directed to repay Rs.2,47,500/- (Rupees two lakhs, forty seven thousand, five hundred) only with interest @ 7% per month w.e.f. 3.12.2007 to the plaintiff. Full realization of the amount by depositing the aforementioned amount into this court which will be disbursed to the plaintiff within a period of two months from the date of this order.

Parties shall bear their own costs.

Having finally decided the suit as aforementioned, the suit is thus decreed accordingly.

Pronounced in open court in presence of parties.

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

Memo No. /SCJ-I I(A)/2012: Dated Aizawl the 10th July, 2012.
Copy to:

1. The District and Sessions Judge, Aizawl District, Aizawl, Mizoram for information.
2. Lalthlani, D/o RK Lalduha, R/o Sihphir Venglai C/o Mr. Lalremthuanga, Advocate.
3. Lalzikpuii Hnamte, W/o Lalhlimthanga, Bawngkawn, Lunglei Road, Aizawl.
4. Registry Section.
5. Case record.

PESHKAR