

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

Civil Suit No.6 of 2007

H.Sapbela,
S/o Taia (L)
R/o Maubawk, Aizawl, Mizoram.

.....Plaintiff

-Versus-

1. State of Mizoram
Through the Chief Secretary to the
Govt. of Mizoram, Aizawl.
2. The Secretary to the Govt. of Mizoram,
Revenue Department, Aizawl.
3. Director,
Land Revenue & Settlement Department,
Govt. of Mizoram, Aizawl.
4. Deputy Director,
Land Revenue & Settlement Department,
Govt. of Mizoram, Aizawl.
5. Assistant Director,
Land Revenue & Settlement Department,
Govt. of Mizoram, Aizawl.
6. The Assistant Settlement Officer
Land Revenue & Settlement Department,
Govt. of Mizoram, Aizawl.
7. Surveyor,
Land Revenue & Settlement Department,
Govt. of Mizoram, Aizawl.
8. C.Rohnuna,
S/o Challiana,
Dinthar veng, Aizawl.
9. V.C.Thanga,
10. R/o Lawipu School Veng, Aizawl.

..... Defendants.

BEFORE

R.VANLALENA, Senior Civil Judge

For the Plaintiff	:	Shri Rualkhuma Hmar, Advocate.
For the Defendants:		Shri R.K.Malsawmkima and Shri Joseph Lalfakawma, Asst. Govt. advocates for Def.No.1-7.
Date of Judgment	:	21.5.2012.

JUDGEMENT ORDER

Dated 21.5.2012

The facts of the case leading to the filing of the instant suit may be briefly stated as belows:-

The plaintiff is a resident of Maubawk, Aizawl, Mizoram. He is the owner of the plot of land covered by Periodic Patta No.159 of 1981 which was issued to him on 10.4.1981 by the Assistant to the Deputy Commissioner, Aizawl District, Aizawl and the same plot of land is situated at Maubawk, Aizawl. The period of the patta was extended from time to time. However, the Revenue Authorities of the Government of Mizoram issued illegally House Pass/Land Settlement Certificate No.2963 of 1987 to Shri C.Rohnuna S/o Challiana, Dinthar veng, Aizawl within the area covered by Periodic Patta No.159 of 1981 without the knowledge and consent of the plaintiff. Thereafter Shri Vanlalhruaia, resident of Dinthar veng, Aizawl was entrusted by Shri C.Rohnuna to look after the land covered by House Pass No.2963 of 1987. In the meantime, Shri V.C.Thanga extracted stones from the said land with the permission of Shri C.Rohnuna. The plaintiff submitted a complaint to the Director of Land Revenue & Settlement Department, Mizoram on 25.10.2005 praying to cancel the House Pass No.2963 of 1987 as the same was issued illegally and further prayed to stay the on going extraction of stones from his land by defendant no.7. However, no positive action was taken by the said authority. Lately on 07.11.2005, the defendant no.3 issued an order vide memo No.C.13016/5-7/02-DISP/DTE(REV) dated 07.11.2005 by which Shri Lalhmachhuana, Surveyor – II was detailed to verify the matter on complaint on 10.11.2005. Defendant no.3 again issued another order dated 02.12.2005 vide memo No.C.13016/5-7/02-DISP/DTE(REV) dated 01.12.2005 directing Shri H.Zabiaka Surveyor –II to re-verify the suit land covered by Periodic Patta No.159 of 1981 on 9.12.2005. As there had been no fruitful outcome in favour of the plaintiff, the defendant no.10 still continued extraction of stones from the suit land and the House Pass No.2963 of 1987 has not yet been cancelled, the plaintiff therefore served Legal Notice under section 80 CPC 1908 to defendants on 8.11.2006 with a prayer to cancel the House Pass No.2963 of 1987 and also to stop the excavation of stones by the defendant No.10 from the disputed land. The cause of action arose in the year 1987 when the House Pass No.2963 of 1987 had been issued to defendant no.8 and the same continue till date as the said House Pass has not been yet cancelled. The suit land situated at Maubawk, Aizawl District which is within the jurisdiction of this court. The suit being declaratory in nature, the plaintiff deposited a court fee of Rs.30/- which is the amount payable as per law. The suit has been filed bona fide and in the interest of justice.

The plaintiff prays the following reliefs:-

- 1) A decree in his favour and against the defendants declaring title and ownership of the suit land covered by Periodic Patta No.159 of 1981 dated 10.04.1981 described in Schedule 'A' of the plaint.

- 2) A decree in favour of the plaintiff and against the defendants cancelling the House Pass No.2963 of 11987 of defendant no.8 as the same was illegally issued by defendants No.1-7
- 3) A decree of permanent injunction in favour of the plaintiff and against all the defendants restraining them not to disturb the peaceful possession of and ownership of the plaintiff of the suit land described in Schedule 'A' of the plaint.
- 4) A decree by way of temporary injunction at the initial stage of the suit against all the defendants restraining them not to disturb the peaceful possession, enjoyment and ownership of the suit land in any way whatsoever pending final disposal of the suit.
- 5) Costs of the suit may be decreed in favour of the plaintiff and against all defendants.
- 6) Any other decree in favour of the plaintiff against all defendants to which the plaintiff is legally entitled as per the law and in the interest of justice.

On the other hand, the defendants No.1-8 submitted their written statement by which they contested the suit stating there is no cause of action in favour of the plaintiff and the suit is not maintainability in its present form and style. The suit is barred by law of limitation, acquiescence and equity. The plaintiff has no locus standi to file the suit and that the suit has not been properly verified in accordance with law. The defendants submitted that the plaintiff's land was demarcated for conversion into House Pass which is having an excess area of 16.30 bighas. The spot verification Report revealed that the said excess area of land has overlapped the area of Lawipu House Site Plan. They further submitted that as per the request of the plaintiff on 25.10.2005, spot verification was conducted on 17.11.2005. However, due to the refusal to sign on the NOC by the Village Council authority of Lawipu, re-verification had to be conducted. But on the day fixed for the re-verification, the plaintiff failed to appear on the spot for reasons best known to him which resulted into Show Cause Notice served on the plaintiff. The defendants further submitted that the LSCs of defendant No.8,9 and 10 had been allotted within the Lawipu House Site Plan while the plaintiff's LSC were allotted outside the original area of P.Patta NBo.159 of 1981 which had overlapped the LSCs of the defendants No.8,9 and 10. Hence the plaintiff's LSCs are liable to cancellation. The defendants thus prayed this court to dismiss the suit as it is devoid of merit with exemplary costs. Defendant no.10 namely V.C.Thanga submitted his written statement stating the defendant no.8 had a land located at Lawipu veng covered by LSC No.2963 of 1987. He entrusted defendant no.9 to look after the said land. He (defendant no.10) extracted stones from the said land with the permissions of defendant no.9 by paying Rs.2000/- per month. The plaintiff claimed the stone quarry to be within his land covered by Periodic Patta No.195 of 1951 and thus submitted a complaint on 25.10.2005 to the concerned authority. He added that from the very day the plaintiff submitted the complaint, he had stopped extracting/excavating stones from the said land. He had no knowledge about the

dispute ever since then and prayed this court to strike off his name from the assay of defendants.

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

- 1) Whether the suit is maintainable in its present form and style ?
- 2) Whether the Land Settlement Certificate is legally issued to the plaintiff or not ?
- 3) Whether the LSC No.2963/89 is issued illegally to defendant no.8 or not ?
- 4) Whether the LSC No.2963/87 overlapped the Periodic Patta No.159 of 1981 or not ?
- 5) Whether the letter No.C.13016/S-7/02-DISP/DTE(REV) dt.10.1.2008 is valid ?
- 6) Whether the plaintiff is entitled to the relief claimed ? If so to what extent ?

The plaintiff examined three witnesses including himself while the defendants No.1-7 examined one witness. Defendants No.8,9&10 (all private persons) examined none.

Issue No.1

This issue relates to the maintainability of the suit. The instant suit had been instituted in the year 2007 by presenting written plaint with required numbers of Photostat copies of the plaint for supply to all the defendants. The plaintiff has deposited required amount of court fees. It disclosed the cause of action. The suit has been properly valued. No formal defects has been found. Hence the issue No.1 is decided in favour of the plaintiff.

Issues No.2 & 5

These two issues are taken together for the sake of convenience. From the deposition of Dw 1 namely Shri H.Zabiaka, Surveyor, it has been seen that in compliance with the order No.C.13016/S-7/02-DISP/DTE(REV)/109 dated 15.4.2008, he went to the site of the suit land on 29.4.2008 at Lawipu to verify as to whether the land of the plaintiff had been overlapped by the land of Defendant No.8. However, due to absence of the plaintiff on the site of suit land, he could not verify the suit land in order to ascertain the complaints of the plaintiff. In his deposition, he stated that the Periodic Patta No.159 of 1981 covering an area of 8 bighas had been converted into House Passes. He did went to the site of the suit land as per the order vide letter No.C.13016/S-7/02-DISP/DTE(REV)/109. Pw 3 namely Shri K.Vanlaliana deposed that the periodic Patta No.159/1981 of the plaintiff had been converted into several House Passes in favour of the plaintiff. The depositions of both witnesses revealed that the plaintiff was legally issued Land Settlement Certificate. Hence issues No.2&5 are decided in favour of the plaintiff.

Issues No.3&4

These two issues are taken up together for the sake of convenience. The plaintiff in his deposition stated that the Government of Mizoram, Revenue Department had illegally issued a Land Settlement Certificate No.2963 of 1987 to the defendant no.8 without his consent and knowledge within his land covered by Periodic Patta No.159 of 1981 by reason of which he had submitted a complaint on 25.10.2005 to the Director, Land Revenue & Settlement Department, Aizawl praying the authority to cancel the said LSC No.2963 of 1987. The evidence of plaintiff had been supported by the evidence adduced by Pw 2 who deposed that he had too a land nearby the plaintiff's land since the year 1977. The revenue Authority, Govt. of Mizoram issued LSC No.2963 of 1987 to the Defendant No.8 within the land of the plaintiff covered by Periodic Patta No.159 of 1981.

The evidence on record clearly revealed that the Defendant No.8 had been issued illegally LSC No.2963 of 1987 from within the land of the plaintiff. At the same time, the evidence on record revealed that the LSC No.2963 of 1987 had overlapped the Periodic Patta No.159 of 1981. Hence issues No.3&4 are decided in favour of the plaintiff.

Issue No.6

This issue relates to whether the plaintiff is entitled to the relief claimed ? If so to what extent ? All the other issues have been decided in favour of the plaintiff. Therefore, issue no.6 does not seem to pose an obstacle in granting and deciding the issue in favour of the plaintiff. The plaintiff prayed the following reliefs @ A decree in his favour declaring his title and ownership over the suit land covered by periodic Patta No.159 of 1981, (b) A decree against the Defendants no.8 cancelling the LSC No.2963 of 1987, (c) A decree for permanent injunction against the said defendant, (d) A decree for temporary injunction restraining the said defendant from disturbing the peaceful possession of and ownership of the suit land of the plaintiff, (e) A decree in his favour and against the defendant for cost of the suit and (f) Any other relief entitled to according to justice, equity and good conscience. Having decided the issue no.6 in favour of the plaintiff, this court has inclined to grant the reliefs prayed for by the plaintiff. However, the reliefs granted are confined only to serial No.(a) & (b) of the prayer leaving behind all the other reliefs sought for as the same appeared to be redundant. This court is of the considered view that parties should bear their own cost.

On having decided all the issues in favour of the plaintiff, this court has finally decreed the suit in favour of the plaintiff and thus granted relief as follows:-

- (a) The plaintiff is the legal and rightful owner of the suit land covered by Periodic Patta No.159 of 1981.

(b) The LSC No.2963 of 1987 belonging to the Defendant No.8 having been illegally issued is hereby declared null and void. The Defendant no.3 is hereby directed to cancel the LSC No.2963 of 1987 with immediate effect.

Parties are to bear their own cost.

The suit having been decreed as above is hereby disposed of accordingly.

Pronounced the judgment & Decree in open court in presence of parties on this 21.5.2012.

Sd/-R.VANLALENA
Senior Civil Judge -2
Aizawl District : Aizawl

Memo No. /SCJ-II(A)/2012 : Dated Aizawl, the 21st May, 2012.
Copy to:

1. The District and Sessions Judge, Aizawl District for information.
2. H.Sapbela, S/o Taia (L) R/o Maubawk, Aizawl, Mizoram C/o Shri Rualkhuma Hmar & ors., Advocates.
3. State of Mizoram, Through the Chief Secretary to the Govt. of Mizoram, Aizawl C/o Asst. Govt. Advocates.
4. The Secretary to the Govt. of Mizoram, Revenue Department, Aizawl C/o Asst. Govt. Advocates.
5. Director, Land Revenue & Settlement Department, Govt. of Mizoram, Aizawl C/o Asst. Govt. Advocates.
6. Deputy Director, Land Revenue & Settlement Department, Govt. of Mizoram, Aizawl C/o Asst. Govt. Advocates.
7. Assistant Director, Land Revenue & Settlement Department, Govt. of Mizoram, Aizawl C/o Asst. Govt. Advocates.
8. The Assistant Settlement Officer, Land Revenue & Settlement Department, Govt. of Mizoram, Aizawl C/o Asst. Govt. Advocates.
9. Surveyor, Land Revenue & Settlement Department, Govt. of Mizoram, Aizawl C/o Asst. Govt. Advocates.
10. C.Rohnuna, S/o Challiana, Dinthar veng, Aizawl.
11. V.C.Thanga, R/o Lawipu School Veng, Aizawl.
12. Registry section.
13. Case record.

PESHKAR