

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

Declaratory Suit No 7 of 2012

Shri David Lalmalsawma s/o R.Biakliana (L)  
R/O A-2 Lalrin Cottage, Sikulpuikawn, Aizawl

.....Plaintiff

-Versus-

Smt Ralkapzauvi w/o R.Biakliana (L)  
R/O E-14, Peter's Street, Khatla

..... Defendant

P R E S E N T

SHRI. R.VANLALENA, MJS, Senior Civil Judge

- |    |                   |   |  |
|----|-------------------|---|--|
| 1. | For the Plaintiff | - | Mr. L.H.Lianhrima Advocate<br>Mr. Lalhriatpuia Advocate<br>Mr Lalbiakdika Sailo Advocate |
| 2. | For the Defendant | - | Self/In person   |
| 3. | Date of Judgment  | - | 25-05-2012   |

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 :-

1. That the Plaintiff is a temporary resident of Sikulpuikawn, Aizawl. In fact, the Plaintiff is the youngest son of Shri R.Biakliana (L) who died on 1-4-2011 while the defendant, Smt Ralkapzauvi is the second wife of Shri R.Biakliana (L) and a resident of Peter's Street, Khatla, Aizawl. Incidentally, the defendant had earlier married Zothansanga Varte with whom she had three daughters and she had a prolonged legal tussle with the illegitimate son of Zothansanga Varte over the landed property belonging to her former husband which is located at Bungkawn, Aizawl. Interestingly, the Late father of the Plaintiff had helped her in fighting for heirship certificate in respect of the immovable property of the deceased former husband of the defendant by engaging her present counsel.

2. That the parents of the Plaintiff, Late R.Biakliana and Lalrinsangi Tochhawng were married on 10-09-1974 in accordance with the Mizo Customary Law and Social Practice by paying the bride price and have four children namely, (a) Rebecca Lalbiaksangi (born on 21-1-1976) (b) Albert Lalmangaiha (born on 19-12-1977) (c) Richard Laldusanga (born on 20-10-1982) and (d) David Lalmalsawma (born on 30-05-1988). Unfortunately, the Late father of the Plaintiff

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took the defendant, Ralkapzauvi and her three daughters, namely, Varthantluangi Varte, Varrozami Varte and Varrosangi Varte to the ancestral home sometime in the beginning of 1992. As a result, the mother of the Plaintiff had to leave for being ousted by the defendant and stayed with her parents' home. Even then, the Plaintiff and his siblings continued to stay with their father at the ancestral home for quite sometime.

3. That even before the parents of the Plaintiff got separated, the eldest daughter, Rebecca Lalbiaksangi used to live with her maternal grand parents with the consent of her parents right from her childhood while Albert Lalhmangaiha and Richard Laldusanga started living with their mother sometime in the beginning of 1994. However, when Albert Lalhmangaiha was to get married his father, R.Biakliana told him to return to the ancestral home and got married under his custody and on his father's instruction. On the other hand, the Plaintiff lived with his father and did his school education till the year 1998.

4. That the Plaintiff and his siblings had great desire to live with their beloved father, however, it was extremely difficult for their father to manage his family consisting of three extra step daughters of his newly wedded wife and four of his children from his first wife. Knowing fully well that their father loved them dearly, he could not simply ignore the said three step daughters who have given no peace of mind to their step father. Even though the Plaintiff and his siblings stayed with their mother, their father has never failed to look after them as and when required and as he had actually included them in the family declaration duly filed by their Late father, R.Biakliana. Likewise, the Plaintiff and his siblings have always stood by their Late father through thick and thin though he had divorced their mother.

5. That the Plaintiff has been nominated by his Late father, R.Biakliana to receive 50% of his General Provident Fund (GPF), Death Cum Retirement Gratuity (DCRG) and Life Insurance Corporation of India (LIC) Policy No 490076278. Besides this, being the youngest son of his Late father, the Plaintiff has always been considered to be the legal and lawful heir of his parents as per the Mizo Customary Law and Practice.

6. That although the defendant and the Late father of the Plaintiff had been married for the past more than 18 years, the defendant could not bear him a child. As per the Mizo Customary Law, the woman has no legal or moral right to inherit the property of her husband. Hence, the defendant has absolutely no right to claim the property of her said husband under the facts and circumstances of the case. It may be pertinent to mention herewith the fact that the defendant has inherited the immoveable property of her former husband through her children and she has now apparently got the immoveable property registered in her name. Hence, the defendant has a landed property to stay in peace even without the suit land and building.

7. That after the death of his father, Shri R.Biakliana on 1-4-2011, the Plaintiff being the legal heir of his said father, applied for heirship certificate in

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respect of the land and building covered by LSC No Azl – 115 of 1967 by filing an application which was endorsed to the Civil Judge, Aizawl. However, the Learned Civil Judge, Aizawl advised the Plaintiff to approach the appropriate civil court for settlement of the instant dispute vide order dated 09-05-2011.

The Plaintiff therefore prays for the following reliefs :

- (a) Let a decree be passed declaring the Plaintiff as the legal heir of his deceased father, Shri R.Biakliana in respect of LSC No Azl – 115 of 1967 as per the Mizo Customary Law and Social practice.
- (b) Let the cost of the suit be decreed in favour of the Plaintiffs against the defendants.
- (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.

8. On the other hand, the sole defendant, Smt Ralkapzauvi w/o R.Biakliana (L), Khatla Peter's Street, Aizawl submitted her written statement on 10-5-2012 and the same may be reproduced in toto as follows :-

To,

The Senior Civil Judge,  
Aizawl District

Subject : LSC No : AZL – 115 of 1967 NEITU (HOLDER) CHUNGCHANG

Ka pu,

Ka pasal R.Biakliana (L) hminga LSC No : AZL – 115 of 1967 hi a fapa David Lalmalsawma neitu nihna I court zahawm taka a rawn dil chungchangah hian a nupui (R.Biakliana (L) ka nih angin engmah dodalna ka neih loh avangin, he case kal lai pawh hi a tul anga tih tawp pawhnise, engmah ka sawi buai lovang tih ka rawn hriattir a che.

I rintlak,

Sd/-  
(RALKAPZAUVI)  
W/O R.BIAKLIANA  
Khatla Peter's Street

9. That since the sole defendant, Smt Ralkapzauvi has not only raised objection against the application but also consented for declaration of the Plaintiff, David Lalmalsawma as legal heir in respect of LSC No Azl-115 of 1967 along

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with the landed building constructed therein, it is no longer required to proceed any further but to dispose of the instant suit by declaring the Plaintiff, David Lalmalsawma as the legal heir of his deceased father, Shri R.Biakliana in respect of LSC No Azl – 115 of 1967.

10. That in view of the written statement submitted by the sole defendant, Smt Ralkapzauvi w/o R.Biakliana (L), the instant suit is hereby allowed as prayed for and the Plaintiff, David Lalmalsawma is hereby declared as the legal heir of his Late father, R.Biakliana in respect of LSC No Azl-115 of 1967 and the house building constructed therein. Further, it is apparent from the record that the LSC No Azl-115 of 1967 has been mortgaged by the deceased R.Biakliana vide Mortgaged Registration No 111 of 2001 with the SBI, Main Branch, Aizawl. In such a situation, the Legal heir, Shri David Lalmalsawma shall liquidate the loan and interest that has been accumulated thereof and take out the said LSC No Azl-115 of 1967 and get the ownership transferred in his name from the Revenue Authorities thereafter.

With the above, the instant civil suit is allowed and disposed of accordingly.

Given under my hand and Seal of this court on this day the 25<sup>th</sup> May, 2012.

Give copy of this order to the parties and the Branch Manager, SBI, Main Branch, Aizawl and the Director, Land Revenue & Settlement for necessary action.

Sd/-  
(R.VANLALENA)  
Senior Civil Judge – 2  
Aizawl District, Mizoram

Memo No /SCJ(A)/2012 : Dated Aizawl, the 25<sup>th</sup> May, 2012.

Copy to :

- 1) Shri David Lalmalsawma s/o R.Biakliana (L), c/o L.H.Lianhrima Advocate
- 2) Smt Ralkapzauvi w/o R.Biakliana(L), E-14, Peter's Street, Khatla, Aizawl Mizoram
- 3) Shri L.H.Lianhrima Advocate
- 4) Branch Manager, SBI Main Branch, Aizawl for necessary action.
- 5) The Director, Land Revenue & Settlement for necessary action.
- 6) Case Record
- 7) J.O.Book

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