

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

Money Suit No.67/2011

Ralramthanga,
S/o Pakhuma (L),
Sakawrtuichhun, Aizawl.

.....Plaintiff.

- Vrs -

1. Director,
Satyam Construction,
Police Bazar, Shillong,
Meghalaya – 793001
2. Manager,
Satyam Construction,
Site Office, Mizoram University,
Tanhrlil, Mizoram.

..... Defendants.

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

For the Plaintiff	:	Shri C.Lalramzauva & ors, Advocates.
For the Defendants	:	Francis V.L.Zuala, Advocate.
Date of Judgement	:	1.5.2012

JUDGEMENT / ORDER

1.5.2012

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

The plaintiff is a businessman by profession residing at Sakawrtuichhun, Aizawl and the Defendant No.1 is the Director of Satyam Construction while defendant No.2 is the Manager of the Satyam Construction in its site office at Mizoram University, Tanhril, Mizoram. The plaintiff and the defendants had made a mutual agreement in the year 2008 for hiring a Bulldozer, supplying stone chips, boulders and metalling of the V.C. site road. The plaintiff accordingly had taken up necessary works in terms of the said Agreement in the year 2008 & 2009. The Defendants paid some amount of the Bills due to the plaintiff for supplying the stone chips, boulders etc. and for hiring the Bulldozer. However, there is still a balance of Rs.2,89,764/- (Rupees two lakhs, eighty nine thousand, seven hundred sixty four) only due to the plaintiff from the Defendants. The plaintiff had served a Legal Notice upon the Defendants on 19.08.2010 calling them upon to pay the balance amount of Rs.2,89,764/- fixing 30 days for the payment. In their reply to the said Legal Notice, dated 08.10.2010, the Defendants denied such amount of liability i.e. 2,89,764/- but admitted that they have a balance of Rs.5133/- (Rupees five thousand, one hundred thirty three) only to be paid to the plaintiff. The cause

of action arose on 21.01.2010 when the Defendants had failed to pay to the plaintiff the balance amount of Rs.2,89,764/- and again arose on 08.10.2010 when the Defendants sent their reply to the Legal Notice and the cause of action still arises till date as the Defendants failed to pay the balance amount till date. The cause of action arose within Aizawl District as the plaintiff and defendants reside within Aizawl District, hence this court has territorial jurisdiction to entertain the instant suit. The plaintiff deposited ad valorem court fees amounting to Rs.5000/-.

The plaintiff therefore claims the following reliefs :-

- 1) A decree in favour of the plaintiff and against the Defendants.
- 2) A decree directing the Defendants to pay the plaintiff the outstanding balance of Rs.2,89,764/- with interest @ 9% per annum from the date of the amount fell due.
- 3) For cost of the suit.
- 4) Any other reliefs as this court deems fit and proper.

During the course of the suit, the court issued summons to the defendants. The said defendants executed a vakalatnama in favour of Shri Francis V.L.Zuala, Advocate on 28.07.2011. The defendants failed to submit their written statement even after more than four months past without assigning any reason therefore and not even prayed for more time for submitting the written statement. This court has passed an order dated 20.01.2012 by which the chance for submission of written statement was closed and further ordered the instant case to be proceeded ex-parte without any written statement.

The court framed issues on 16.02.2012 on the basis of the pleading of the plaintiff as under:-

- 1) Whether there was an Agreement between the plaintiff and the Defendants in the year 2008 for hiring of Bulldozer, for supplying of stone chips, boulders and for metalling of VC site road ?
- 2) Whether the Defendants have failed to pay the Plaintiff balance of bills amounting to Rs.2,89,764/- ?
- 3) Whether the Plaintiff is entitled to the relief claimed ? If so to what extent ?

The plaintiff examined himself as only one witness.

Issue No.1 :-

Whether there was an Agreement between the plaintiff and the defendants in the year 2008 for hiring of a Bulldozer, for supply of stone chips, boulders and metalling of VC site road ? The plaintiff (Pw.1) in his deposition before the court repeated the same statement what he had stated in his plaint and exhibited the following documents :-

- a) Exhibit- (P)-I is the working bills dated 21.01.2010.
- b) Exhibit- (P)-2 is copies of details of daily records.
- c) Exhibit- (P)-3 is a copy of an extract copy of his Bank Account.
- d) Exhibit- (P)-4 is a copy of the Legal Notice served upon the defendants dated 19.08.2010.
- e) Exhibit- (P)-5 is a copy of Reply to the said Legal Notice dated 08.10.2010.
- f) Exhibit- (P)-6 is a copy of House Tax Payee Certificate.

On careful perusal of the materials available on record, no copy of an Agreement alleged to have been made between the Plaintiff and Defendants found. However, it may be presumed that the plaintiff and the Defendant had made a mutual agreement which may be perceived from the fact that the defendants in their reply to the Legal Notice did not raise any denial to the said agreement. Above this, the Defendants did not take any step to contest the instant suit no more except to execute the vakalatnama. Upon careful consideration of the materials available, this court has come to a conclusion to decide the issue No.1 in favour of the plaintiff, hence decided accordingly.

Issue No.2 :-

Whether the Defendants have failed to repay the plaintiff the balance of his bill amounting to Rs.2,89,764/-. As the Defendants did not contest the instant suit in spite of duly Notice served upon them, the only available deposition which the court has to peruse is the evidence deposed by the plaintiff alone and none else. In his deposition, the plaintiff deposed that there has been a bill balance amounting to Rs.2,89,764/- which the Defendants have to pay to plaintiff arising from the supply of stone chips, boulders, hiring charge of Bulldozer etc. for metalling works of VC site road as per the mutual Agreement between Plaintiff and Defendants in the year 2008. As the defendants have neither written statements nor deposition of evidences in the instant case, this court has been compelled to rely solely on the evidences of the plaintiff deposed before this court. The evidence of the plaintiff had not been shaken by the Defendants. By relying the only available unshaken evidence, this court decided issue no.2 in favour of plaintiff.

Issue No.3 :-

Whether the Plaintiff is entitled to the relief claimed ? If so to what extent ? The court has decided all the foregoing issues in favour of the Plaintiff. As has stated earlier, the Defendants did not contest the instant suit even after duly engaged a lawyer by executing a vakalatnama in favour of Shri Francis V.L.Zuala. This court has been compelled to presume that the Defendants have nothing to say in this case and further presumed that the Defendants have admitted the suit by silence. Therefore, issue no.3 is decided in favour of the Plaintiff.

On having decided all the issues in favour of the Plaintiff, this court finally decreed the suit accordingly in favour of the Plaintiff as under:-

- 1) The Defendants No.1 & 2 are hereby directed to deposit the balance bill amounting to Rs.2,89,764/- (Rupees two lakhs, eighty nine thousand, seven hundred sixty four) only to this court by cash within a period of one month from the date of this order with interest @ 6% per annum with effect from 21.01.2010 till full realization of the total amount.

Parties shall bear their own costs.

Given under my hand and seal of this court on this 1st May, 2012.

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

Memo No..... /SCJ-II(A)/2012: Dated Aizawl the 4th May,2012.
Copy to:

1. The District and Sessions Judge, Aizawl District for information.
2. Ralramthanga, S/o Pakhuma (L), Sakawrtuichhun, Aizawl through Counsels Shri C.Laramzauva & Ors.
3. Director, Satyam Construction, Police Bazar, Shillong, Meghalaya – 793001 through counsel Shri Francis V.L.Zuala.
4. Manager, Satyam Construction, Site Office, Mizoram University, Tanhril, Mizoram through counsel Shri Francis V.L.Zuala.
5. Registry Section.
6. Case record.

PESHKAR

