

IN THE COURT OF SHRI VANLALMAWIA, ADDL. DISTRICT JUDGE-I
AIZAWL JUDICIAL DISTRICT, AIZAWL.

Review Petition No.3/2015

A/O RFA 11/2007.

M.C.Lalthankima : Petitioner

Vrs

State of Mizoram& Ors : Respondent

BEFORE

Vanlalmawia,

ADJ-I

PRESENT

For the petitioner : H.Laltanpuia, Advocate

For the Respondent : R.Lalremruata.

Date of Hearing : 29.10.2015

Date of order : 2.11.2015

ORDER

Both parties are heard at length. Mr. H.Laltanpuia Id. counsel for the review petitioner submitted that :

1. Way back in the year 1971, one Mr. Challiana s/o Sahuma of Luangmual, Aizawl was allotted a plot of land located at Berampu Mual dotu eptu mualah, vide Village Council In Hmun Pass No. 60 of 1971 dt. 29.10.1971. The present petitioner purchased the said plot of land from Sh. Challiana of Luangmual for a consideration Rs 20,000/- (Rupees twenty thousands) only on 4.3.1985. The present petitioner maintained the land and also constructed the RCC building for his residential purposes. The suit land is now under the territorial jurisdiction of Zonuam Local Council.

2. Immediately after the issuance of the aforesaid In hmun Pass, dt. 29.10.1971, the then Mizo District Council; Executive Department, Aizawl issued an order No 28 of 1971 vide Memo No. REV. 1/71/2206 - 15 Dated Aizawl, the 23rd December 1971 declaring the suit land and the adjacent area as prohibited area and the Government of Mizoram is intending to demarcate the disputed areas so as to make allotments in favour of other persons other than the present petitioner. Accordingly, in order to retain his right, the present petitioner filed declaratory suit No. 10 of 2003 before the Court of Shri. Lalbiakzama Assistant to the Deputy Commissioner Aizawl District, Aizawl. The aforesaid Court pronounce Judgment & Order on 16.6.2006 and being aggrieved , the present Petitioner filed RFA No. 11 of 2007. After hearing both sides, this Hon'ble Court dismissed the appeal Vide Order memo No. 664/ADJ-I (A)/2014 dt 27.6.2014.
3. The present petitioner did not prefer any second appeal against the dismissal Order and it is open to the present petitioner to move this Hon'ble Court to review its own Judgment under Order XLVII, R.1 r/w S. 151 CPC on the following ground amongst other:

- a) For that O. XLVII, R. 1 CPC provided that : **"Application for review of judgment.-** (1) Any person considering himself aggrieved-

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of the decree or order made against

him, may apply for a review of judgment to the Court which passed the decree or made the order.”

This provision of law is very much relevant in the case of the present petitioner. The INHMUN PASS No. 60 of 1971 was in the hand of the present petitioner after dt. 10.5.2015 (when it was furnished to Shri. Challiana of Luangmual, Aizawl by the Revenue Department). The said document was discovered by the Petitioner and is important and value enough for evidence but the impugned judgment & order was already passed when it was in the hands of the present petitioner.

- b) For that the present petitioner is not in a position to submit relevant and vital document i.e. IN HMUN PASS No. 60 of 1971 dt. 29.10.1971 due to the reason that it was kept by the Revenue Department since 1985. No copy was available to the present Petitioner. Even if it was submitted before this Hon’ble Court prior to the pronouncement of the impugned Judgment & Order, the decision of this Hon’ble Court may be affected adversely.
- c) For that the present Petitioner would like to submit the aforesaid document before the Hon’ble Court for perusal and examination but the Revenue Department furnished the same to Shri. Challiana (original owner of the disputed land) only on 10.5.2015 wherein the suit as well as the appeal (RFA No. 11 of 2007) has been already disposed.
- d) For that the present petitioner can file additional documents before the Hon’ble Court only by way of review of the Judgment and this Hon’ble Court can give just and fair trial to the litigants only if review petition is allowed.

e) For that the aforesaid vital document was in the hands of the Petitioner only on 10.5.2015 and the said document forms the basis of the right of the present Petitioner. In fact, the Executive order was issued on 23.12.1971 but the IN HMUN PASS No. 60 of 1971 was issued on 29.10.1971 and therefore, the said Executive Order does not preclude the Village Council, Luangmual to issue such Pass and subsequently, the said IN HMUN PASS No. 60 of 1971 was valid and genuine in all spheres.

f) For that Section 3 of the House Site Act, 1953 provided that :
"Allotment of sites:- 1) subject to the provisions of sub-section (2) of this section, a Village Council shall be competent to allot sites within its jurisdiction for residential and other non – agricultural purposes with the exception of shops and stalls which include hotels and other business houses of the same nature"

According to this provisions of law, the Village Council, Luangmual is competent to allot sites to any individual and as such the site allotted in favour of Shri. Challiana is legal and valid. Further, subsequently purchase of the land by the present Petitioner is also valid which resulted absolute ownership, possession and title of the present petitioner over the suit land.

g) For that even if the instant application for review of the impugned judgment & order is not allowed, irreparable loss and injury shall be caused to the petitioner.

h) For that no prejudices will be caused to either of the Parties if this petition is allowed.

i) For that this petition is filed bonafide and for the interest of justice.

He, therefore prayed the Court to allow review of the impugned Judgment & Order vide Memo No. 664/ADJ-I (A)/2014 dt 27.6.2014 passed by this Hon'ble Court in RFA No. 11 of 2007 and to sent the suit i.e. Declaratory Suit No. 10 of 2003 to the Court of Senior Civil Judge, Aizawl for denovo trial.

Pu R.Lalremruata Addl. Govt Advocate argued and submitted that :

- a) That the declaratory suit No 10 of 2003 was disposed by Asst. to D.C PuLalbiakzama on 16.6.2006 and the said judgment and order was appealed by Pu M.C.Lalthankima before this Hon'ble court and this Hon'ble court dismissed the said appeal in RFA No.11/2007 A/o D.S No.10/2003 on 27.6.2014.
- b) That the appellant filed a Review petition No.3/2015 before this court to review the judgement and order in RFA No.11/2007 based on the alleged V.G Pass No.60 of 1971 which is strongly objected.
- c) That the alleged V.C Pass No.60 of 1971 bears no signature of the VCP of the concerned local area, in fact only Sd/- is not accepted. Hence he said VC Pass must be a fake one.
- d) That the supply of the alleged VC Pass by the Revenue Department is very doubtful, in fact there is no point of keeping the VC Pass by the Revenue Department, moreover the petitioner failed to annex the application for supply of the said VC Pass.
- e) That the appellant failed to prove that the alleged VC Pass covered the suit land.
- f) That the plaintiff purchased VC Pass No. 298 of 1974 and 491 of 1986 issued in the name of the appellant, however the plaintiff constructed his house outside the area of his LSC.
- g) That it is not proper to admit the alleged VC Pass No.60 of 1971 at this stage, in fact the appellant was supposed to show the same before disposal of D.S No.10 of 2003. The appellant should have applied for supply of the same if he was really interested of before filing the D.S No.10 of 2003.

Hence prayed the court to dismiss the instant review petition.

On perusal of the material evidence available on record, and upon hearing of both parties, I am more convinced by the submission of Addl Public Prosecutor, and find that the said 'IN HMUN PASS NO 60 of 1971', is not signed by anybody, and it was recorded Sd/- Saptawna dt.29.10.2971, and no seal is available who is Saptawna is not known even Saptawna is VCP, or any authority who can grant House Pass, the court presume that every person may issue any pass to his favorite friend if signature and seal, bearing his position and status is not mentioned. No boundary description is available in his claim in hmun Pass No.60 of 1971.

So, I have no alternative except to dismiss the Review petition.

The Review petition is hereby dismissed.

Sd/-VANLALMAWIA

Addl.District Judge-I

Aizawl Judicial District,Aizawl.

Memo No _____/ADJ-I(A)/2015 : Dated Aizawl the,2nd November 2015.

Copy to :

1. District Judge, Aizawl
2. M.C.Lalthankima C/o H.Laltanpuia Advocate.
3. State of Mizoram, Secretary Government of Mizoram.
4. Deputy Commissioner, Aizawl District, Aizawl.
5. The Director, Land Revenue & Settlement Department.
6. Asst. Director of Survey(T), , Land Revenue & Settlement Department
7. GA.
8. Judicial Section
9. Case record.
10. Guard file.

PESHKAR