

**IN THE COURT OF SENIOR CIVIL JUDGE- 2
AIZAWL DISTRICT: AIZAWL, MIZORAM**

TITLE SUIT NO. 01 OF 1996

Plaintiffs:

1. Mr. R. Thangpuia
Chairman
Church Board Committee
U.P.C., Bethlehem Vengthlang
Aizawl- Mizoram
2. Mr. Nghakliana
Chairman
Church Board Committee
U.P.C., I.T.I., Veng
Aizawl- Mizoram
3. Mr. P.C. Laltluanga
Chairman
Church Board Committee
U.P.C., College Veng
Aizawl- Mizoram
4. Mr. Lalhmingthanga Sailo
Chairman
Church Board Committee
U.P.C., Armed Veng South
Aizawl- Mizoram
5. Mr. Z. Lalzidinga
Chairman
Church Board Committee
U.P.C., Bazar Veng
Aizawl- Mizoram
6. Mr. Thanhkira
Chairman
Church Board Committee
U.P.C., Ramhlun Vengthar
Aizawl- Mizoram
7. Mr. Sangliana
Chairman
Church Board Committee
U.P.C., Zemabawk North
Aizawl- Mizoram

By Advocates : 1. Mr. L.H. Lianhrima
2. Mr. Lalhriatpuia

Versus

Defendants:

1. The General Superintendent
United Pentecostal Church, North East India
Headquarter at Jingkieng
Shillong, Meghalaya
2. The District Superintendent
UPC of North East India
Aizawl East District with Headquarters at Zarkawt, Aizawl

By Advocates : 1. Mr. W. Sam Joseph
2. Mr. F. Lalengliana

Proforma defendant:

The Director
Land Revenue and Settlement Department
Govt. of Mizoram
Mizoram- Aizawl

By Advocates : 1. Mr. R. Lalremruata, AGA
2. Miss Bobita Lalhmingmawii, AGA

Date of Arguments : 29- 06- 2011
Date of Judgment & Order : 09 -08 -2011

BEFORE

Dr. H.T.C. LALRINCHHANA, Sr. CJ- 2

JUDGMENT & ORDER

INTRODUCTORY

In the global scenario, the United Pentecostal Church International (UPCI) was founded in 1945 with the merger of the Pentecostal Assemblies of Jesus Christ (PAJC) and the Pentecostal Church Incorporated (PCI). The UPC is distinguished from other mainstream Pentecostal denominations by its anti-Trinitarian beliefs and teaching on the oneness of the nature of God. Leaders from both the PAJC and the UPCI met and together formed the UPCI. Officers were elected from both organizations. The first General Superintendent was Howard Goss and the Assistant General Secretary was W.T. Witherspoon.

In their brief history, In 1913 R.E. McAlister preached a sermon on Acts 2:38 in which he emphasized that God is known only in the name of Jesus Christ. Shortly thereafter, the practice of re-baptizing in the name of Jesus only, not in the Trinitarian name of Father, Son, and Holy Spirit, became common as “oneness” teaching spread. Tensions arose between the Trinitarians and the new Oneness believers, setting in motion a split. Numerous mergers, unions and splits followed, leading eventually to a merger in 1945 forming the United Pentecostal Church. The word “International” was later added to the name of the church body. Originally located in the city of St. Louis, in 1970 the denomination moved to Hazelwood, MO, a suburb, where it also operates its Gateway College of Evangelism. Today the UPCI is extremely active in foreign mission activities. Their sacred text is The Holy Bible

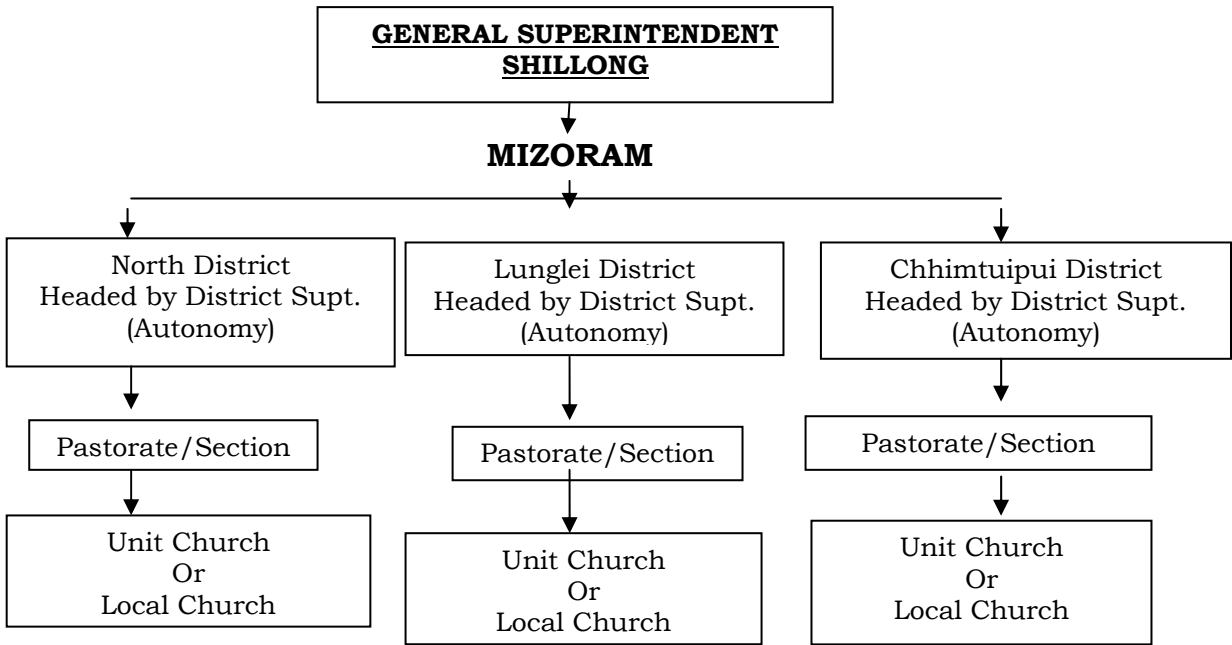
In their Beliefs and Practices, Oneness Pentecostals teach that baptism “in the name of Jesus” is the only correct formula for water baptism. The UPCI bases this view on Acts 2:38 where Peter commands repentance and baptism in the “name of Jesus Christ.” UPCI rejects the historic doctrine of the Trinity and hence also the use of the Trinitarian formula used in Christian Baptisms (Matt. 28:19). The UPCI belief is that the Father, the Son, and the Holy Spirit are really all manifestations of the one God who became flesh in the person of Jesus Christ. In the words of an UPCI statement of faith, the historic doctrine of the Trinity is “inadequate and a departure from the consistent and emphatic biblical revelation of God being one”. UPCI theologians and pastors argue that Jesus’ use of the singular word “name” in Matt. 28:19 reflects the view that the Father and the Holy Spirit are manifestations of the “one name” in the text – Jesus Christ. To further substantiate their claim, they also point to John 14:7-11 where Jesus prays that He and the Father are One. Baptismal practice reflects UPCI understandings of God. Previous Trinitarian baptisms are regarded as invalid. Coupled with this teaching is the belief that baptism by immersion only is the sole correct mode of baptism. Sprinkling does not constitute a correct baptism. The UPCI does not baptize infants. Oneness Pentecostals also believe in a “baptism in the Holy Spirit” today evidenced by the gift of speaking in tongues (glossalalia). Salvation is believed to be “by grace through faith” apart from works. The Lord’s Supper is practiced as a memorial feast. The holiness codes prevalent in most of the Holiness churches are also practiced in the UPCI. Dancing, movies, the wearing of jewelry, immodest dress and the like are forbidden. The polity of the UPCI is congregational with some degree of leadership and representation from its headquarters in Hazelwood, MO.

In the context of Mizoram, the UPC was firstly established in Mizoram on 19.2.1950 by Rev. E.L. Scism. Prior to that, there was no UPC in Mizoram (previously known as Lushai Hills). Rev. Scism came to India along with his wife and landed at Madras on 26th March 1949. After going to Kodaikanal and then to Travancore, he decided to come to Lushai Hills (now Mizoram). He arrived at Capital of Lushai Hills known as Aijal (Now Aizawl) on 18.2.1950. He had formed the UPC in Aijal, Lushai Hills on 19.2.1950 with some revivalist in Aizawl. When the UPC was formed by Rev. E.L.

Scism, Pu Zakamlova was the first to join him and many others followed suit. The UPC which was established on 19.2.1950 was the part of UPC International and the Unit of UPC in Lushai Hills was under the administrative control of United Pentecostal Church of India. Initially the Headquarters was at Adur in Kerela later the headquarters was shifted to Bhopal, MP. All the UPC unit churches were controlled by the UPC India Unit. The UPC in Lushai Hills was also under the administrative control of UPC India. In the year 1969 for administrative convenience, UPC North East India was bifurcated from UPC India and named the ‘UPC North East India’.

Day by day the UPC in North East India evident gradual growth and many unit churches were established within North East India including Mizoram, touching a number mark of over 67,000 members within Mizoram alone. While the UPC (NEI) was progressing harmoniously, an unfortunate incident occurred followed by a series of differences resulting out of the eruption un-befit of a church within Mizoram in 1994 -1995 witnessing huge number of members choosing to leave the UPC (NEI) to form ‘UPC of Mizoram’ which is followed by a contest of title on Church buildings, Pastor Quarters etc. This incident also eked out the instant case as the plaintiffs and the main defendant. Before split into two viz. United Penticostal Church of Mizoram and United Penticostal Church, North East India, it may be relevant to highlight table of their administrative hierarchy so as to ascertain their exact status as –

UNDIVIDED STATUS OF UNITED PENTICOSTAL CHURCH



The suit is filed during 1996 which is also a fresh suit and is pending for about 15 years. Before anything else, I must apologize as undue delay of justice. Admittedly, parties fails to reach amicable settlement even through Lok Adalat method except the disputes raised by the plaintiff no. 1 viz. Bethlehem Vengthlang, Aizawl and plaintiff no. 5 viz. Bazar Veng, Aizawl. Hence, a must to adjudicate the instant case like the disputes at I.T.I locality, College Veng, Armed Veng South, Ramhlun Vengthar and Zemabawk North in this court.

NUCLEUS OF THE CASE

The plaintiffs No. 1, 2, 3, 4, 5, 6 & 7 in their respective complaints submitted that they are the Chairmen of the respective Church Board Committees of Bethlehem Vengthlang, I.T.I Veng, College Veng, Armed Veng 'S', Bazar Veng, Ramhlun Vengthar and Zemabawk North UPC, Aizawl and are acting on behalf of the said respective Church Board Committees in respect of the properties owned and held by or in the name of the respective local Churches.

The defendant No. 1 who is the General Superintendent of the U.P.C of N.E India and the defendant No. 2 who is the District Superintendent of the newly created Aizawl East District U.P.C have been impleaded as defendants due to their interference with and claims of the properties belonging to the plaintiff churches and the defendant No. 3 being an authority for issuing of Passes/LSCs and for allotment of sites to the plaintiff churches for construction of their church buildings is impleaded only as a proforma defendant as no relief is claimed against him.

The Church Board Committee of Bethlehem Vengthlang of which the plaintiff is the representative purchased a plot of land under LSC No. 87/74 located at Bethlehem Veng for construction of their church building in the year 1990. Accordingly the said land is now transferred in the name of the Secretary U.P.C of Bethlehem Veng with effect from 30.10.90. The Church Building was constructed on the said land and the plaintiff church conducted its worship services in the said church building with effect from 13.1.91. As already mentioned, the said dispute was already settled amicably by parties without calling for the further interference of this court.

The Church Board Committee of I.T.I Veng of which the plaintiff No. 2 being its Chairman is the representative also purchased a plot of land under LSC No. 118/75 belonging to Shri Chalchunga located at I.T.I Veng in the year 1986 and later the said purchase the plaintiff church was issued a separate LSC No. 1315/89 and the said land was used for location and construction of its Church building by the said local church. The Church building being completed was used for the purpose of worship service by the plaintiff church with effect from 1986 itself.

The Church Board Committee of College Veng U.P.C represented by the plaintiff No. 3 had also purchased a plot of land from Pi Phungi in the year 1974 and for which DLP No. Misc. 12/93 was issued in the year 1993 by the defendant No. 3 under the provision of the Mizo District (Land & Revenue) Act, 1956 in the name of the Chairman of the plaintiff church for construction of church building. Accordingly on completion of the said church building the plaintiff church used the same for conducting its worship services w.e.f June 1974.

The Church Board Committee of Armed Veng 'S' represented by the plaintiff No. 4 was allotted a plot of land under Misc. Pass No. 23/74 located at Armed Veng for the purpose of location and construction of its church building by the defendant No. 3. The plaintiff church started its worship

services in the church building constructed over the said land with effect from the year 1974.

The Church Board Committee of Bazar represented by the plaintiff No. 5 purchased a plot of land in 1985 located at Bazar Veng under LSC NO. 530/82 for the purpose of location and construction of its church building. Accordingly after the said purchase the defendant No 3 issued a certificate of Land Lease No. Misc 14 of 1990 in favour of the Plaintiff Church with effect from 21.5.90. As already pointed out, the said dispute was already settled amicably by parties without calling the further interference of this court.

The Church Board Committee of Ramhlun Vengthar represented by the plaintiff No. 6 also purchased a plot of land at Ramhlun Vengthar from Shri D.Hmunliana in the year 1985 on which the construction of an R.C.C Church building known as 'Bethesda Temple' was started in the year 1990 and the said building is still under construction. However, the same has been used for the purpose of worship service by the plaintiff church.

The Church Board Committee of Zemabaw North represented by the plaintiff No. 7 also bought a plot of land under LSC No. AZL. 6/86 in the year 1989 after selling their previous land from Shri Vanlalthuama. However even after the said purchase of the said land the said LSC No. AZL. 6 of 86 remained in the name of Shri Vanlalthuama. The plaintiff church due to financial constraint in constructing the church building resolved to obtain some loan from Shri Sangliana, Chairman of the said Committee. Accordingly a sum of Rs 1,50,000.00 was advanced to the plaintiff church by Shri Sangliana. Thereafter the church Board Committee of the plaintiff church made a resolution on 24.5.94 to the effect that the said LSC No. AZL. 6/86 shall remain with Shri Sangliana and be kept in his name till the said loan is fully repaid. Accordingly the said LSC was now transferred temporarily in the name of Shri Sangliana with the permission of the Church Board Committee of the plaintiff church.

The Plaintiffs therefore claims the following reliefs:

- (a) For a decree in favour of the Plaintiffs and against the defendants No. 1 & 2.
- (b) For a decree declaring that the Plaintiffs are the rightful owners of the suit properties in accordance with the Passes/LSCs issued to them by the defendant No. 3.
- (c) For a decree directing or restraining the defendants No.1 & 2 and their agents to refrain from interfering with the management, custody and possession of the suit properties, and allowing the plaintiffs to have a peaceful and undisturbed possession management of the same, and
- (d) For any other relief (s) as this court may deem fit and proper.

On the other hand, the Defendant No 2 on behalf of the Defendant No 1 and 2 contested against the instant suit by filing their Written Statement stating amongst others that the suit is not maintainable in its present form and style, the plaintiffs have no locus standi to file this suit, the suit is bad for misjoinder and non-joinder of necessary parties. The Chairmans of Church Board Committees of U.P.C, Bethlehem Vengthlang, I.T.I Veng, College Veng, Armed Veng 'S', Bazar Veng, Ramhlun Vengthar and Zemabawk North under the defendant No. 1&2 are necessary parties and without making them parties just decisions cannot be arrived in this suit. Further the UPC North East India being the registered body should also be made as a party in its registered name. The suit is barred by the principles of waiver, acquiescence and estoppels and there is no cause of action in the instant suit against the answering defendants. As the plaintiffs have filed this suit representing the different self styled UPC Churches and as none of them are house tax paying native of Mizoram and as they have engaged a lawyer they are not exempted from paying court fee. As no court fee is paid as required under Court Fee Act (Assam Schedule) as per the value of the subject matter of the suit, this suit is liable to be dismissed. The answering defendants denies all the averments made in the plaint save and except what are specifically admitted in this Written Statement.

The answering defendants also categorically denied of the averments made in para 1 of the plaint and state that Chairmans of the Church Board Committees of "Bethlehem Vengthlang, ITI Veng, College Veng, Armed Veng South, Bazar Veng, Ramhlun Vengthar and Zemabawk North", UPC are Shri. Upa C. Thangliana, Upa Thangbuanga, Upa Dokhama, Upa Hrangduna, Rev. R. Pahlira, Upa Sanghmingthanga, and Upa Rosiama respectively. The plaintiffs 1 to 7 are Chairmans of the self styled UPC after they left the original UPC Unit Churches which are under the defendants 1 & 2. The properties movable as well as the immovable belongs to the UPC Unit Churches under the defendants No. 1 & 2. The properties illegally claimed by the plaintiffs are all owned by the Unit Churches under the defendant No. 1 & 2 and the plaintiffs have no right to claim the said properties. The answering defendants do not further admit the contents of para 2 of the plaint and state that the defendants 1 & 2 are the overall controlling authority of the unit churches situated in the area mentioned above. The defendants No. 1 & 2 are responsible to look after the interest of all the unit churches including the churches mentioned above. Eventhough, the landed properties are registered in the names of the local churches, as per the bye-laws of the North East India, the immovable properties in the names of the unit churches are the properties of the "UPC North East India" which is represented by the defendant No.1. As all the unit churches falls within the UPC Aizawl East District, under North East India, the defendant No. 2 is the person initially appointed by the Executive Board of North East India and later elected by District Conference to look after the interest of all the unit churches of the "UPC North East India".

The answering defendants do not admit the averments in para 3 of the plaint and state that the plaintiff No. 1 was a member of the unit churches of Bethlehem Vengthlang under UPC North East India. The plaintiff No.1 was suspended from the Primary membership of UPC in the North East

India UPC Executive Board meeting vide its resolution No. 24 dated 28th March - 3rd April 1995. Now he is a self styled UPC church board chairman. The plaintiffs' church board was framed after the plaintiff left the parent church i.e UPC Bethlehem Vengthlang under UPC North East India hence the question of purchasing the land by the plaintiff does not arise. In fact when the plot of land covered under LSC No. 87/74 was purchased by the UPC Bethlehem Veng Unit, there was only one church and that was under the defendant No. 1 and the plaintiff was part of the said church. Originally there was one Bethlehem Veng UPC church and as there were too many members, the Sectional Pastor of UPC North East India of Bethlehem Veng along with the members decided to have another church in Bethlehem Veng. The Church under the defendant No. 1 had purchased the land for Rs. 65,000/-. Accordingly they separated from the main Bethlehem Veng church and it was called UPC Bethlehem II. Accordingly the LSC was also mutated in the name of Secretary, Church Board Committee, Bethlehem UPC on 30.3.90. On 30.3.90, the plaintiff's self styled UPC church was not in existence. The church building was also constructed within the said land by the members of the UPC Bethlehem veng under the defendant No. 1. On 13.1.1991 the Sectional Pastor UPC of North East India of Bethlehem had started the church called Bethlehem Vengthlang and by virtue of the powers conferred to him under Chapter 5 Sec. 1(8) of the Sectional by Laws he formed the church Board and started worshiping in the said church. The said church is functioning smoothly under the chairmanship of Pu. C. Thangliana. The plaintiff and some of his followers had left the Bethlehem vengthlang church run by the UPC North East India and formed a separate church and called it as UPC Bethlehem Vengthlang. Hence the plaintiff No. 1 has no right to claim the said land and building. While leaving the original church, the said plaintiff had illegally taken the LSC No. 87/74 and he has no right to hold it with him and it is the property of the unit church of the defendant No.1.

The answering defendants also do not admit the contents of para 4 of the plaint and state that the plaintiff No. 2 was a member of the ITI Veng church under North East India and due to his clandestine activities against the church he was suspended by the North East India UPC Executive Board vide Resolution No. 24 dt. 28th March - 3rd April, 1995 from his Primary membership. After he was suspended, he and some members of the ITI Veng unit church under North East India left and formed a self styled UPC ITI Veng. In this connection the defendants would like to mention that UPC of North East India sectional Pastor of Bethlehem Section, Rev. H. Vantluanga formed the ITI Veng church on 9.1.95 and on 30.1.1986 purchased a plot of land from Pu Chalchhunga and made LSC No. 1315/89 in the name of UPC ITI Veng. After the purchased of the said land an Assam type building was constructed within the said land and the church was officially opened by the then District Superintendent of the North Mizoram District UPC under North East India UPC. In the said land RCC building was being constructed. Due to the illegal claim by the plaintiff No.2 the construction could not be continued in the said land. The worship by the members of the ITI Veng UPC under North East India is being held regularly without any interruption under the Chairmanship of Upa Thanbuanga. The

plaintiff No. 2 has no right to claim the property of the ITI Veng unit church under North East India after leaving the parent church.

The answering defendants do not admit the contents of para 5 of the plaint and state that the chairman of the UPC College Veng church board is Upa Dokhama and not the plaintiff No. 3. The plaintiff was a member of the UPC North East India unit College Veng due to the anti church activities he was also suspended vide Resolution No. 24 dt. 28th March – 3rd April, 1995 of the UPC of North East India Executive Board Committee. After he was suspended he left the UPC College Veng alongwith few others and formed another church under the same name of the defendant's Church. On 18.1.1970 the Sectional Pastor of UPC of North East India Rev. R. Hrangvunga formed the Church Board at College Veng. It is a fact that the UPC College Veng Unit under the UPC North East India had purchased a plot of land on 14.2.74 from Smt. Phungi. After the said land was purchased the Unit Church under UPC North East India had constructed the church building and started worshipping since June 1974 till it was closed down at the request of the defendant No. 2 by the District Magistrate, Aizawl due to the illegal interference by the plaintiff No. 3 and his followers. In the year 1993 Pass no. DLP. No. Misc. 12/93 was issued by the Revenue authorities in the name of the Chairman, Local Church Board Committee, College Veng which is the name of the unit Church under the UPC North East India. When the plaintiff No. 3 left the unit Church College Veng to form a new church had taken the pass without the consent and permission of the church board committee, College Veng under the defendant No. 1, had illegally taken away the Original Pass DLP. Misc. 12/93 and while the T.S 1/94 was pending the plaintiff had illegally corrected the Original pass DLP Misc. 12/93 and added "UPC of Mizoram" on 31.7.95. The said correction is illegal and void as it is violative of the order of the Govt. issued vide Memo No. K. 15013/13/92 – Rev dt. 25th July 1994. As per this order no pass can be corrected or modified without the consent of the UPC North East India. The said correction is liable to be deleted. The answering defendants do not admit the contents of para 6 of the plaint and state that the plaintiff No. 4 is not the Chairman of the church board of Armed Veng 'S' UPC Church. In reality the chairman is Upa Hrangduna. The plaintiff No. 4 was a member of the Unit Church of Armed Veng 'S' under the UPC North East India but due to the anti church activities, he was suspended vide resolution No. 24 dt. 28th March – 3rd April 1995 in the UPC North East India Executive Board Meeting. After he was suspended, he left the local church and joined the newly formed UPC of Mizoram and the church services in the unit church at Armed Veng 'S' is going on smoothly under the chairmanship of Upa Hrangduna. On 24th June, 1971 at the instances of Rev. R. Hrangvunga sectional Pastor of Bethlehem area under UPC North East India Armed Veng 'S' Church was formed. Initially the service was conducted in the residence of Pu Darbuaia and the first chairman of the said unit church was Upa Kapdenga. In the year 1974 the leaders of the unit Church Armed Veng 'S' under UPC North East India applied for a plot of land to the Govt. of Mizoram had allotted a plot of land for the construction of the church building in the name of Armed Veng UPC. Soon after the land was allotted to the unit church of UPC North East India, they constructed the church building. Since 17th August, 1975 they started

worshiping in the said church building after it was dedicated and opened by Rev. R.Hrangvunga, Sectional Pastor of Bethlehem under UPC North East India till it was closed down at the request of the defendant No. 2 and his subordinate by the District Magistrate, Aizawl due to the illegal interference by the plaintiff No. 4 and his followers. Before the church building was constructed they worshiped for a short while the unit church UPC Armed Veng 'S' under North East India had their worship within the Police Department Complex. On 24.1.1971 the church board was formed by the said sectional Pastor, since then till date the services and activities are going on smoothly and presently the church services and activities are going on smoothly under the Chairmanship of Upa Hrangduna. The plaintiff No. 4 is representing the break-away group and is not recognized by the defendants. The plaintiff No. 4 has no right to claim the properties and he or his men have no right to retain the Original Pass. It should be handed over to the Chairman UPC Armed Veng 'S' under UPC, North East India.

The defendants do not admit the averments in para 7 of the plaint and state that the plaintiff No. 5 is not the Chairman of the Church Board Committee, Bazar Veng UPC. In reality the chairman is Rev. R. Pahlira. The plaintiff No. 5 was a member of the unit church of Bazar Veng under the UPC North East India, but due to the anti church activities, he was suspended vide resolution No. 24 dt. 28th March – 3rd April, 1995 in the UPC North East India Executive Board Meeting. After he was suspended he left the local church under the North East India. When he left he was not the Chairman but Upa Chawngphira was the Chairman of the said local church. The plaintiff No. 5 and some others left the Bazar Veng unit church under North East India and formed the new church, the unit church under the UPC North East India functioning smoothly ever since under different chairmans and now under the chairmanship of Rev. R.Pahlira. In the year 1983 Rev. H.Vantluanga sectional Pastor of Bethlehem formed the Bazar Veng UPC. They purchased the land of Shri. Z.Lalzidinga covered under LSC No. 530/82 for Rs 1,20,000/- and constructed the church building in the said plot. The unit church 'Bazar Veng' was continuing to have the worship in the said church building till it was closed by the District Magistrate at the request of the defendant No. 2 and his subordinate due to illegal interference by the plaintiff No. 5 and his men. When the land lease was made by the leaders of the unit church under UPC North East India, as the location of the land was in Electric Veng, the land lease was issued in the name of secretary UPC Electric Veng, Aizawl vide Misc. 14/1990.

The answering defendants do not admit the averments in para 8 and state that Chairman of the Church Board Committee of Ramhlun Vengthar UPC is Upa Sanghmingthanga and not the plaintiffs No 6. The plaintiffs No 6 was a member of the unit Church Ramhlun Vengthar UPC under UPC North East India and he left the said Church and joined the newly formed church. The Ramhlun Vengthar UPC church was started in the year 1985 under the leadership of Rev. L. Biakkunga sectional Pastor under N.E.I UPC. He also formed the Church Board Committee. In the year 1985 land was purchased for the church building from Pu D. Hnunliana. In the year 1986 Assam Type building was constructed and the said building was dedicated by Rev. Hrangvunga, UPC of NEI, North Mizoram District

Secretary. As the building was not sufficient, the unit church under UPC North East India started construction of R.C.C building. The unit church leaders applied to the revenue department for mutating the pass/patta in the name of the unit church, before the pass could be collected from the Revenue department, the plaintiffs No. 6 and some men had left the unit church and they approached the Revenue department and obtained the pass No. Misc 16/95 in the name of Chairman, UPC of Mizoram. The word "of Mizoram" was added later in hand. The named mentioned under copy to: Chairman, UPC, Ramhlun Vengthar. It is clear the plaintiff No 6 had manipulated the Pass. It is also evident that the said land was purchased by the unit church of the defendant No 1. Hence the property is the property of unit church Ramhlun Vengthar under the UPC North East India. The unit church Ramhlun Vengthar under UPC North East India is continuing to worship in the said church building till it was closed by the District Magistrate, Aizawl at the request of the defendant No 2 due to the illegal interference by the plaintiff no 6 and his men. The land and the building is the property of the unit church Ramhlun Vengthar under UPC, North East India and the plaintiff has no right to hold the pass.

The answering defendants do not admit the averments in para 9 of the plaint and state that the UPC used to have a church at Zemabawk. In the year 1963 at Zemabawk Kawn Veng to which the defendants No. 1 & 2 are the representatives. On 26.8.1989 the The UPC Zemabawk 'N' unit church under UPC North East India had sold the original land which was at Zemabawk Kawn Veng to Pu Rothangpuia for Rs. 4,00,000/- and on the same day the said unit church purchased a plot of land from Pu Vanlalthuama which was covered under LSC No. 6/86 for Rs. 1,30,000/-. The entire money was handed over to the owner Pu Vanlalthuama by Rev. R. Pahlira who was the Sectional Pastor of UPC North East India, Zemabawk along with Rev. R. Hrangvunga, Secretary, Rev. R. Lalrinsanga District Treasurer at the residence of the Sectional Pastor. On the same day in addition to Rs. 4,00,000/- Mr. Rothangpuia's son had paid Rs. 15,000/- towards the construction of the church building. The money which Rev. R. Pahlir received was utilized for the construction of the said building. The unit church Zemabawk 'N' was started construction of the building in the year 1989 and completed the construction in the year 1992. The Rev. R. Pahlira was the chairman of the church Board Committee up to Dec. 1990 and from Jan. 1991 till the completion of the church building Rev. K. Ropara was the chairman of the church board committee. The church building committee chairman was Upa Chawisanga for the beginning till the end of the construction. The church Board or the building committee never borrowed any money from the plaintiffs No. 7. The allegation that the money was borrowed from the plaintiffs No. 7 is completely false and mischievous. The plaintiffs No. 7 was a member of the unit church Zemabawk 'N' till he left the unit church Zemabawk 'N' under North East India UPC, to join the newly formed UPC of Mizoram. He was also suspended vide resolution No 24 dt. 28th March- 3rd April, 1995 in the UPC North East India Executive Board Meeting due to the anti church activities. During the prudence of T.S. 4/94 the plaintiffs No.7 had illegally mutated the LSC No. 6/86 in his name. The alleged resolution of the church board mentioned in the plaint is an afterthought and it was made in order to suit his case. The pass/LSC

and the land covered under the pass/LSC belongs to the unit church UPC Zemabawk 'N' under UPC North East India and the plaintiff No.7 has no right to hold the pass/LSC in his name. The said LSC is liable to be transferred in the name of the unit church UPC, Zemabawk 'N' under UPC North East India.

The defendants do not admit the contents of para 10,11&12 of the plaint and state that the UPC was first established in Mizoram on 19.2.1950 by Rev. E.L.Scism. Prior to that there was no UPC in Mizoram (previously known as Lushai Hills). It will not be out of place to mention that Rev. Scism came to India along with his wife and landed at Madras on 26th March, 1949. After going to Kodaikanal and then to Travancore, he decided to come to Lushai Hills (now Mizoram). He arrived at Capital of Lushai Hills known Aijal (Now Aizawl) on 18.2.1950. He formed the UPC in Aijal, Lushai Hills on 19.2.1950 with some revivalist in Aizawl. When the UPC was formed by E.L.Scism, Bro. Zakamlova was the first to join him and many others followed. The UPC which was established on 19.2.1950 was the part of UPC International and the Unit of UPC in Lushai Hills was under the administrative control of United Pentecostal Church of India. Initially the Headquarters was at Adur in Kerela later the headquarters was shifted to Bhopal, MP. All the UPC units were controlled by the UPC India Unit. When the UPC Aizawl Headquarter Church was constructed in 1955 Rev. E. L. Scism had sent 75 percent of the estimated total amount needed to construct the said building. After the UPC was established by Rev. E. L. Scism in erstwhile Lushai Hills, he used to come to Aijal to attend the conference/convention almost every year. Day by day the UPC in the then Lushai Hills started growing and many unit churches were established in Aijal town as well as in the Lushai Hills. The UPC in Lushai Hills was under the administrative control of UPC India. In the year 1969 for administrative convenience UPC North East India was bifurcated from UPC India and the UPC North East India was registered under the Societies Registration Act 1860 vide Registration No. 100 of 1968-1969 dt. 26th March 1969. The UPC in Mizo District also formed part of the UPC North East India. Initially when the UPC was formed Rev. Harry E. Scism s/o Rev. E.L.Scism was the Superintendent, Rev. J. Damhuala was the Asst, Superintendent UPC Office Aizawl Mizo District, Rev. L. Muana Sailo was General Presbyter South Mizo District and Rev. Saihnuna was the General Presbyter North Mizo District. Out of the eight persons who put the signatures in the memorandum of Association of the UPC of North East India, Rev, Harry E, Scism, Rev. J. Damhuala, Rev. L. Muana Sailo and Rev. Saihnuna also included. This clearly shows that UPC within erstwhile Mizo District was part and parcel of UPC North East India. As the UPC was expanding rapidly the district were separated and divided for administrative convenience. On 8.5.1994 Aizawl East District headed by the defendant No 2 was formed by bifurcating the North Mizoram District. The division of the District are internal matters of the UPC North East India and the plaintiffs have no right to mention anything about it. The local churches under different district are directly controlled by the district head and the district head is controlled by the head of the UPC of North East India. As per the Bye Laws of the NE India UPC has got the supreme power to administer, religious affairs including requisition, owning managing and disposal of properties within its

jurisdiction. For convenience sake for the immoveable properties of the local churches under UPC of North East India, passes were obtained in the name of the local churches or church board committee. Even though, the passes are obtained in the name of local churches or church board committee as per the bye laws which were followed by the plaintiffs till they left the defendants unit churches in order to form new self styled UPC church and join the newly formed UPC of Mizoram all the properties of the churches belongs to the UPC of North East India. In this connection it would not be out of place to mention that all the properties illegally claimed by the plaintiffs are the properties of the unit churches under UPC North East India. Although the purchased of the land or acquisition of the land and construction of the church building were done by the unit churches under UPC of North East India as per chapter 6 of District Bye Law in page 34 it is clearly mentioned that:- "In the event of dissolution or changing or re-organization of any district in North East India any church properties whatsoever in such district shall be automatically in the hand of the Executive Board". "In the event of laying claim over property because of trouble of any Districts property whatsoever belongs to United Pentecostal Church of North East India without the order of the Executive Board which is the highest authority such property shall not be moved or changed". And section 5 of the Chapter 3 of local Bye Law at page 44 is also relevant in this context.

The defendants do not admit the averments in para 13 of the plaint and state that during 1968 - 69 the Mizo District was one of the district of Assam and the people of erstwhile Mizo district were Indian Citizen and they had no restriction to go to any where in Assam/India and the then leaders of the UPC unit churches within Mizoram voluntarily put their signatures in the memorandum of Association showing that they are part of the UPC North East India. The Societies Registration Act provides for registration of Societies and association by registering under the said act the society attains legal entity. The plaintiffs had left the unit churches under North East India and the unit churches under UPC North East India is functioning smoothly hence the question of taking the properties of the unit churches under North East India does not arise. The properties moveable or immovable existed before the plaintiffs left the church continue to belong to the unit church of the UPC of North East India. The averments in para 14 of the plaint are categorically denied. The defendants state that all the properties claimed by the plaintiffs are the properties moveable and immovable of the unit churches under the UPC North East India and in turn as per by laws it is the properties of the UPC of North East India. The unit churches under the defendants were paying taxes and revenue in respect of all the properties till the plaintiffs have illegally taken the passes when they left the unit churches under the defendants. All the passes in the name of unit churches or church board committee were issued to the UPC churches/church board committees for the unit churches under UPC of North East India. During the pendency of the suits filed by the plaintiffs earlier they had clandestinely by suppressing the facts had corrected some passes to UPC of Mizoram in gross violation of the order issued by the Government of Mizoram vide Memo No. K. 15013/13/92- Rev. Date 25th July, 1994. All the corrections here to be deleted and the passes/lease

should be restored to the original owner i.e. the unit churches under UPC of North East India. No passes can be issued to the plaintiff or to the self styled churches they are allegedly representing as those self styled churches never exist when the passes were issued by the Revenue department. Hence according to land laws in Mizoram and as per the direction of the Government of Mizoram all the properties illegally claimed by the plaintiffs are the properties of the unit churches under the UPC of North East India. The averments in para 15 of the plaint are categorically denied. All the suit properties were in continuous possession of the unit churches under UPC North East India ever since the land was acquired and building construct till the churches were locked at the orders of the District Magistrate Aizawl District at the request of the defendants and their representatives due to the trouble created by the plaintiffs and their men when they were intending to leave the unit churches under UPC of North East India. The defendants had to take the extreme step of requesting the District Magistrate to close the churches due to the fear of breach of peace.

The averments in para 16 & 17 of the plaint are categorically denied. As mentioned in different paragraphs above, the unit churches under the UPC of North East India are the direct owners of the properties illegally claimed by the plaintiffs. In fact the unit churches under UPC of North East India had acquired/purchased the landed property in dispute and the church Board Committee of the unit churches raised funds and also received fund from the district headquarters towards the construction of church buildings. The churches committees of the unit churches under UPC of North East India have been paying Revenue/Taxes for the properties in dispute till the plaintiffs illegally taken away the passes/pattas/LSC when the plaintiffs left the unit churches under UPC North East India in order to form separate churches in the localities mentioned under their names in the cause title of the plaint and in order to join the newly formed self styled UPC of Mizoram. In order to avoid double payment the unit churches under the UPC of North East India did not make payment. Just because the plaintiffs are paying taxes, doesn't mean that the properties for which the taxes are being paid belongs to them. If the properties belonged to the plaintiffs and the same was in possession of the plaintiffs as alleged they need not have come to the court for declaration of title. The unit churches under the UPC North East India was in possession the properties illegally claimed by the plaintiffs until the plaintiffs and their followers had created breach of peace. When the plaintiffs left the unit churches under UPC of North East India they had stolen away important documents belonging to the said unit churches. The plaintiffs can never be rightful owners of the land and buildings illegally claimed by them. The plaintiffs have no right to interface with rightful ownership and peaceful possession of the lands of the unit churches under the UPC of North East India. In 1994 the plaintiffs had filed suits against the defendants over the same properties and whatever changes the plaintiffs have done with the passes/payment of taxes was during the pendency of the suits. Hence the plaintiffs cannot derive any benefit from the changes made by them with the passes and payment of revenue/taxes. The plaintiffs should have waited for the decisions of the court for making any changes in the passes/LSCs/P. Pattas or even payment of any tax/revenue.

The averments in para 18 and 19 are categorically denied. No cause of action had risen in favour of the plaintiffs against the defendants. In fact the cause of action arose in favour of the defendants and their unit churches against the plaintiffs when they left the unit churches under UPC North East India in order to form the churches in their locality and joined the self styled UPC of Mizoram and illegally taken the documents and illegally mutated some of the passes/pattas/LSCs in gross violation of the Govt. of Mizoram order. It is also admitted by the plaintiffs that they had left the unit churches under UPC of North East India and formed separate churches and they joined the UPC of Mizoram in the year 1995. This shows that the plaintiffs have no right to continue with the suit and this suit is liable to be dismissed with costs. As no cause of action arose in favour of the plaintiffs against the defendants the question of jurisdiction does not arise.

The averments in the para 20 of the plaint is categorically denied. As the suit is a title suit, as per the court fees act the plaintiffs are liable to pay court fees calculated according to the value of the properties they illegally claim. Further, as the plaintiffs are representing the self styled churches formed by them with some members who left the unit churches under the UPC of North East India, they should get permission from the court to sue. As no permission was taken for representing the group of people forming the newly formed self styled churches this suit is liable to be dismissed. The plaintiffs have not claimed exemption to pay court fee under any provisions of law and no exemption was granted by this court. Hence the plaint is liable to be rejected with cost. In addition to the submission made above the defendants state that all the plaintiffs were part of the UPC of North East India, North Mizoram District till they left the unit churches under UPC North East India and when Aizawl East District was bifurcated from North Mizoram District those unit churches under UPC North East India in Bethlehem Veng, I.T.I. Veng, College Veng, Armed Veng 'S', Bazar Veng, Ramhlun Vengthar & Zemabawk North became part of the Aizawl East District. In the original suits the plaintiffs wanted to be part of UPC North Mizoram District under UPC of North East India. Further, it would not be out of place to mention that the T.S. No. 4 of 1994 Pu Sangliana Versus UPC North East India & Others was not allowed to be withdrawn yet. Hence, the plaintiff No. 7 can not be added in this suit till the permission is given by the court.

- a) That the defendants put the plaintiffs to strict proof of all the allegations made in the plaint.
- b) That the defendants crave the leave of the court to submit other points and all the documents during the course of hearing of this suit.
- c) That the plaintiffs are not entitled to the reliefs claimed and the reliefs claimed are illegal, mischievous.

In the circumstances stated above, the defendants prayed that your this court may be graciously pleased to dismiss the suit with actual cost incurred by the defendants. Further, it is prayed that let a decree be passed

declaring that the plaintiffs and some men left the Unit Churches under UPC of North East India and formed the separate self styled UPC churches and the plaintiffs have no right to claim the properties of the unit churches which they left in the year 1995 and the plaintiffs be directed to hand over all the passes/pattas/LSCs in respect of properties of the said unit churches to the Chairman of the church board committees of the unit Churches under UPC of North East India and confirmed the title of the unit churches under UPC North East India and they be directed not to interfere with the peaceful possession of the said churches buildings by the unit churches under UPC North East India kept under locked and key by the District Magistrate, Aizawl District at the request of the defendants and their representative. Further, the District Magistrate, Aizawl District be directed to hand over possession of the church buildings kept under lock and key to the Unit Churches under UPC of North East India. Further, it is prayed let any other relief to which the defendants are entitled be ordered in favour of the defendants.

The Director of Land Revenue and settlement being merely the proforma defendant did not submit written statement.

ISSUES

On the basis of the pleadings of both sides, the original issues were framed and by virtue of O. XIV, R. 5 of the CPC, the issues were slightly amended and the amended form of issues are as follows -

1. Whether the suit is bad for non-joinder of parties.
2. Whether the suit is barred by limitation.
3. Whether the suit is barred by the principles of estoppel, acquiescence and *res-judicata*.
4. Whether the suit is bad for improper valuation of the suit property.
5. Whether the suit is bad for not giving notice u/s 80 CPC.
6. Whether the plaintiffs have any *locus standi* to file the suit.
7. Whether the plaintiffs were part of the UPC, North East India.
8. Whether the plaintiffs left the UPC, North East India and formed a separate Church. If so, why and when?
9. Whether the UPC of North East India on the basis of its registration under the Societies Registration Act, 1860 in 1969 can claim the disputed properties as its own or through their units in Mizoram and whether the Bye Laws of the UPC of North East India is applicable in the instant case.
10. Whether the suit properties are belonging to the plaintiffs or to the Defendants. If so, on what basis.

11. Whether the plaintiffs are entitled to the reliefs claimed. If so to what extend.

BRIEF ACCOUNT OF EVIDENCE

For the Plaintiff No. 2:

The plaintiff no. 2 had produced the following witnesses namely-

1. Mr. Lalnghakliana S/o Khualbawia (L), ITI Veng, Aizawl (Hereinafter referred to as PW-1 of the plaintiff no. 2).
2. T. Upa C. Rodingliana S/o Upa C. Lalduhawma, ITI Veng, Aizawl (Hereinafter referred to as PW-2 of the plaintiff no. 2).
3. Upa H. Dilneihthanga S/o Upa Lalthanmawia (L), ITI Veng, Aizawl (Hereinafter referred to as PW-3 of the plaintiff no. 2).
4. Upa C. Lalduhawma S/o Lalhnuathanga, ITI Veng, Aizawl (Hereinafter referred to as PW-4 of the plaintiff no. 2).

The **PW-1 of plaintiff No. 2** in his examination in chief deposed that he was baptized as UPC in 1964 at Riangtlei village and shifted into Aizawl at ITI locality in 1987 and settled thereat till date, he have been functionary as an elected Chairman of the Church Board Committee, UPC of ITI locality from 1991. So far as his knowledge concerned, the church building was constructed in 1996. The land was purchased from one Mr. Chalchhunga of Khatla at Rs. 21,000/- in 1986 before he settled down at ITI locality and it was settled under LSC No. Azl. 1315/89 in the name of UPC, ITI Veng-Aizawl. He was in a position to produce the said LSC documents. After constructing Assam Type building therein, they started to construct RCC building during worked together with the defendants and is not yet completed. As disputes with the defendants, the said building is put under lock and key. Ext. P-3 is a copy of LSC No. Azl. 1315/89, Ext. P-3(a) is boundary description, Ext. P- 3 (b) is the Sketch Map, Ext. P- 3 (c) is the NOC., Ext. P- 3 (d) is Certificate of land valuation, Ext. P- 3 (e) is the Non-encumbrance certificate for the said LSC.

During cross examination, he deposed that before 1995, the Pastor of the section used to be the part of nominating officers. When purchasing of the suit land, the District Headquarters sanctioned loan amount at Rs. 19,000/- later waived such liabilities as grant in aid. Before 1995, the District Headquarter was at Tuikhuahtlang and after split with the defendants, it was shifted at Chaltlang. After locking of their church building, they performed church service at Hmeithai Association building and the other group also used private residence. Before 1995, they were under the administration of UPC of North East India.

The **PW-2 of plaintiff No. 2** in his examination in chief deposed that he was born in 1973 and belonging to UPC since parents. He continuously and permanently dwelled at ITI locality since 1984. Since 1986, they used to worship at their new constructed church building. The suit land was purchased from one Mr. C. Chalkunga at Rs. 35,000/- in 1984. The member of UPC at ITI during 1984-1994 was 140. In the morning of

23.5.1994 at 7:00 A.M., the said church was locked by the police force with the UPC of North East India, the UPC of North East India did not have any members in their locality. After that the reprimand members from them formed UPC of North East India and they became 6 or 7 members. He was elected as Tual Upa in 2009 and he was a PYD Secretary during 1995 when disputes with the defendants. The UPC of North East India contributed Rs. 19,000/- after completion of construction of the church building and they spent the same for procurement of furniture. The disputed LSC is also in the custody of Upa H. Dilneithanga who is the Secretary of them. Ext. P- 2 is a copy of LSC No. 118 of 1975, Ext. P-3 is a copy of LSC No. Azl. 1315 of 1989, Ext. P-4 is a copy of letter issued to the Director, LR&S Deptt., Ext. P- 1 is a copy of LSC No. 87 of 1974.

In his cross examination, he deposed that before forming of UPC of Mizoram, they were under the administration of UPC of North East India.

The **PW-3** of plaintiff no. 2 in his examination in chief deposed that since 1984 he continuously and permanently dwelled at ITI locality. Since 1986, they used to worship in their own church building. The suit land was purchased from one Mr. C. Chalkunga at Rs. 35,000/- in 1984. The member of UPC at ITI during 1984-1994 was 140. In the morning of 23.5.1994 at 7:00 A.M., the said church was locked by the police force with the UPC of North East India, the UPC of North East India did not have any members in their locality. After that the reprimand members from them formed UPC of North East India and they became 6 or 7 members. He was elected as Tual Upa in 2009 and he was a PYD Secretary during 1995 when disputes with the defendants. The UPC of North East India contributed Rs. 19,000/- after completion of construction of the church building and they spent the same for procurement of furniture. The disputed LSC is also in the custody of Upa H. Dilneithanga who is the Secretary of them. Presently, they are worshipping in the house building of Hmeithai Association.

In his cross examination, he deposed that the disputed LSC is in his custody. He denied that the suit properties were belonging to UPC of North East India.

The **PW-4** of plaintiff no. 2 in his examination in chief deposed that since 1984 he continuously and permanently dwelled at ITI locality. Since 1986, they used to worship in their own church building. The suit land was purchased from one Mr. C. Chalkunga at Rs. 35,000/- in 1984. The member of UPC at ITI during 1984-1994 was 140. In the morning of 23.5.1994 at 7:00 A.M., the said church was locked by the police force with the UPC of North East India, the UPC of North East India did not have any members in their locality. After that the reprimand members from them formed UPC of North East India and they became 6 or 7 members. He was elected as Tual Upa in 2009 and he was a PYD Secretary during 1995 when disputes with the defendants. The UPC of North East India contributed Rs. 19,000/- after completion of construction of the church building and they spent the same for procurement of furniture. The disputed LSC is also in the custody of Upa H. Dilneithanga who is the Secretary of them.

In his cross examination, he deposed that in 1956, he joined UPC and he admitted that the UPC of North East India gave financial assistance at Rs. 19,000/- and spent them for purchasing Pulpit. Presently, they are worshipping in the house building of Hmeithai Association.

For the plaintiff No. 3:

The plaintiff no. 3 had produced the following witnesses namely-

1. Mr. P.C. Laltluanga S/o P.C. Rokhuma (L), College Veng, Aizawl (Hereinafter referred to as PW-1 of the plaintiff no. 3).
2. Upa R. Lalsanga S/o Darkhuma (L), College Veng, Aizawl (Hereinafter referred to as PW-2 of the plaintiff no. 3).
3. Upa Lalvarparha Sailo S/o Lalthuama Sailo (L), College Veng, Aizawl (Hereinafter referred to as PW-3 of the plaintiff no. 3).

Only examination in chief of **PW-1** of plaintiff no. 3 is found on record and he deposed that since the beginning of 2003, they used to worship in the disputed church building. The suit land was purchased in 1974 from Pi Phungi and settled under Land Lease No. DLP Misc 12 of 1993 in the name of Chairman, Local Church Board Committee, College Veng UPC. In the early part of 1994, the said church was put under lock and key due to disputes with the defendants.

The **PW-2** of plaintiff no. 3 in his examination in chief deposed that since 1989, the name of UPC of College Veng was composed from Venghlui UPC. The suit land was purchased in 1974 from Pi Phungi at Rs. 3500/- and settled under Land Lease No. DLP Misc 12 of 1993 in the name of Chairman, Local Church Board Committee, College Veng UPC. They used administer themselves with autonomy since inception of College Veng UPC. On 22nd May, 1994, their church was put under lock and key while conducting church service.

In his cross examination, he deposed that since 1995, they conducted church service in the building of Mr. Laltluanga.

The **PW-3** of plaintiff no. 3 in his examination in chief deposed that since 1988, he permanently residing at College Veng, Aizawl. The suit land was purchased in 1974 from Pi Phungi at Rs. 3500/- and settled under Land Lease No. DLP Misc 12 of 1993 in the name of Chairman, Local Church Board Committee, College Veng UPC. On 22nd May, 1994, their church was put under lock and key while conducting church service. They mutated the name of owner of the suit land under Land Lease No. DLP Misc 12 of 1993 in the name of UPC of Mizoram, Chairman, Local Church Board Committee, College Veng with effect from 31.7.1995 as issued by the competent authority.

In his cross examination, he deposed that since 1995, they conducted church service in the building of Mr. Laltluanga who was the Chairman of the Church Board. He denied that during pendency of the case, the suit land was mutated in their name.

For the plaintiff no. 4:

The plaintiff no. 4 had produced the following witnesses namely -

1. Upa Tlangkhuma S/o Biala (L), Armed Veng South - Aizawl (Hereinafter referred to as PW-1 of the plaintiff no. 4)
2. Lalhmingthanga Sailo S/o Saihnuna Sailo (L), Armed Veng South- Aizawl (Hereinafter referred to as PW-2 of the plaintiff no. 4)

The **PW-1** of plaintiff no. 4 in his examination in chief deposed that since 1970, he stayed at Armed Veng South, Aizawl. The land for the church of UPC, Armed Veng South was allotted under Misc Pass No. 23 of 1974. Being the holder, it remains in their custody. They used to work together with the UPC of North East India. Their church was lock on 29/5/1994.

In his cross examination, he deposed that in the month of April, 1995, the UPC of Mizoram was formed. Before joining UPC of Mizoram, the tithe and other contributions were paid to the Pastor who were appointed by the UPC of North East India. After closing of their church building, they are performing church service sometimes in the private house of their members or sometime in the school.

The **PW-2** of plaintiff no. 4 in his examination in chief deposed that since 1973, he stayed at Armed Veng South- Aizawl. In his own initiative by meeting with Mr. Vaivenga on 25/7/1974, the then Revenue Minister, land was allotted to them under Misc Pass No. 23 of 1974 Dt. 5/8/74 and used to conduct church service in the said building since the end of 1974. As merged with UPC of North East India during 1969, the trained ministers under UPC of North East India performed their religious practices but the local church have had full authority on the properties. Being the owner, the said landed documents also remains in their custody and also paid revenue tax regularly by them. During 1995, they were insulated from the UPC of North East India. Ext. P- 4 is a copy of Misc Pass No. 23 of 1974 Dt. 5/8/74 and Ext. P- 4 (a) is a revenue tax receipt paid upto 1982.

In his cross examination, he admitted that the UPC in Mizoram was formed when Mr. Scism came to India from America. He also admitted that for the convenience the UPC of North East was formed and got registration under the Societies Registration Act having headquarters at Shillong. So far as his knowledge concerned, the UPC in Armed Veng was established in 1970. He also admitted that before 1995, they were under the administration of UPC of North East India. He denied that at present, the number of member of their church is not exceeding 200.

For the plaintiff no. 6:

The plaintiff no. 6 had produced the following witnesses namely -

1. Upa V.L. Hmangaiha S/o Upa Lalrema (L), Ramhlun Vengthar - Aizawl (Hereinafter referred to as PW-1 of the plaintiff no. 6)
2. Tirhkoh H. Lalrawngbawla S/o Upa H. Lalthanmawia (L), Ramhlun Vengthar - Aizawl (Hereinafter referred to as PW-2 of the plaintiff no. 6)
3. Upa H. Vanlalvena S/o Lalthanga (L), Ramhlun Vengthar - Aizawl (Hereinafter referred to as PW-3 of the plaintiff no. 6)
4. Upa Lalchhuana S/o Lalmangzuala, Ramhlun Vengthar - Aizawl (Hereinafter referred to as PW-4 of the plaintiff no. 6)

The **PW-1** of plaintiff no. 6 in his examination in chief deposed that since 1980, he dwelled at Aizawl and also obtained Misc 16/95 for the disputed land which was purchased from one Mr. D. Hnunliana at Rs. 50,000/- and issued the same in the name of Chairman, UPC of Mizoram, Ramhlun Vengthar as the local church is supreme authority.

In his cross examination, he deposed that since 1985, he stayed at Ramhlun Vengthar- Aizawl. In his knowledge, the church building at Ramhlun Vengthar was constructed in 1986. After forming UPC of Mizoram, they purchased a building where they are worshipping. He admitted that at the time of filing of the suit, he was not a member of UPC of Mizoram, Ramhlun Vengthar.

The **PW-2** of plaintiff no. 6 in his examination in chief deposed that since 1990, he worshipped in the UPC at Ramhlun Vengthar. At the time of locking of the church building, he was the Secretary in the Church. They had obtained Misc 16/95 for the disputed land which was purchased from one Mr. D. Hnunliana at Rs. 50,000/- and issued the same in the name of Chairman, UPC of Mizoram, Ramhlun Vengthar. Without their knowledge and consent, the UPC of North East India locked their church building on 23/5/1994.

He admitted that by leaving the UPC of North East India, they formed UPC of Mizoram. He admitted as a fact that initially, they were known as Ramhlun 'N' UPC Church and renamed as Ramhlun Vengthar Church. He admitted that before forming of UPC of Mizoram, they were under the administration of UPC of North East India.

The **PW-3** of plaintiff no. 6 in his examination in chief deposed that since 1990, he dwelled at Ramhlun Vengthar- Aizawl and also obtained Misc 16/95 for the disputed land which was purchased from one Mr. D. Hnunliana at Rs. 50,000/- and issued the same in the name of Chairman, UPC of Mizoram, Ramhlun Vengthar as the local church is supreme authority. Without their knowledge and consent, the UPC of North East India locked their church building on 23/5/1994.

In his cross examination, he deposed and admitted that before forming UPC of Mizoram, they ministers were hailed from the UPC of North East India.

The **PW-4** of plaintiff no. 6 in his examination in chief deposed that since 1991, he dwelled at Ramhlun Vengthar- Aizawl and also obtained Misc 16/95 for the disputed land which was purchased from one Mr. D. Hnunliana at Rs. 50,000/- and issued the same in the name of Chairman, UPC of Mizoram, Ramhlun Vengthar as the local church is supreme authority. Without their knowledge and consent, the UPC of North East India locked their church building on 23/5/1994.

In his cross examination, he deposed that initially, they were known as Ramhlun 'N' UPC Church and renamed as Ramhlun Vengthar Church. He admitted that before forming of UPC of Mizoram, they were under the administration of UPC of North East India. He also admitted that before their land lease was issued, UPC of Mizoram was already formed.

For the plaintiff no. 7:

The plaintiff no. 6 had produced the following witnesses namely -

1. Upa Sangliana S/o Gama (L), Zemabawk - Aizawl (Hereinafter referred to as PW-1 of the plaintiff no. 7)
2. Upa Mitinkunga S/o Liantudaia (L), Zemabawk - Aizawl (Hereinafter referred to as PW-2 of the plaintiff no. 7)
3. Upa Laltlanmawia S/o Sangliana, Zemabawk - Aizawl (Hereinafter referred to as PW-3 of the plaintiff no. 7)

The **PW-1** of plaintiff no. 7 in his examination in chief deposed that since 1952 he permanently resided at Zemabawk and joined UPC in 1958, after selling of their previous land, they had purchased the land of Mr. Vanlalthuama S/o Ranga (L) located at the side of Aizawl to Lunglei Road and also issued LSC No. Azl. 6/86 for the same in his name as the church had borrowed his money at Rs. 1,50,000/-. Before liquidated of his money, the church committee also resolute to put the said LSC in his name. Since the said borrowed money was not recovered till 1994 when disputes with the defendants, the said LSC also remains in his custody. As creation of Aizawl East District of UPC, the other members of UPC left them as UPC of North East India, they remains go ahead as Zemabawk UPC and later joined UPC of Mizoram after forming of the same. At that time, they were 133 church members with 31 households. As reported by UPC of North East India, the said church was put under lock and key.

In his cross examination, he deposed that so far as his knowledge concerned, the construction of the church building in the suit land was completed in 1992 and inaugurated by Rev. Saihnuna who was a District Pastor of North Mizoram District. He cannot say that how much money was spent for construction of the said church building.

The **PW-2** of plaintiff no. 7 in his examination in chief deposed that since 1990, he resided at Zemabawk, the suit land was purchased in 1989 located at Aizawl – Lunglei road adjacent to the way of TB. Hospital. Since their contribution was insufficient for such construction, the amount at Rs. 1,50,000/- was borrowed from Upa Sangliana, the then Chairman of Local

Church. So, the name of the LSC No. Azl. 6/86 was also put in his name as resolute by the church committee and is not yet liquidated. As creation of Aizawl East District of UPC, the other members of UPC left them as UPC of North East India, they remains go ahead as Zemabawk UPC and later joined UPC of Mizoram after forming of the same. At that time, they were 133 church members with 31 households. As reported by UPC of North East India, the said church was put under lock and key.

In his cross examination, he deposed and admitted that before forming UPC of Mizoram, they were under the UPC of North East India. After the UPC of Mizoram was formed in the month of April, 1995, they are under the District Superintendent of Aizawl North District. As he was not at Zemabawk in 1989, what he says about 1989 was based on hearsay.

The **PW-3** of plaintiff no. 7 in his examination in chief deposed that he permanently stayed at Zemabawk since 1962 when he was born. The suit land was purchased in 1989 located at Aizawl – Lunglei road adjacent to the way of T.B. Hospital. Since their contribution was insufficient for such construction, the amount at Rs. 1,50,000/- was borrowed from Upa Sangliana, the then Chairman of Local Church. So, the name of the LSC No. Azl. 6/86 was also put in his name as resolute by the church committee and is not yet liquidated. As creation of Aizawl East District of UPC, the other members of UPC left them as UPC of North East India, they remains go ahead as Zemabawk UPC and later joined UPC of Mizoram after forming of the same. At that time, they were 133 church members with 31 households. As reported by UPC of North East India, the said church was put under lock and key.

In his cross examination, he deposed that after forming UPC of Mizoram, their church was locked. Till purchasing of the land as financed by the Headquarters of UPC of Mizoram in 2000, they had performed church service in his father's house. The suit church building was inaugurated by Rev. Saihnuna, who was the Pastor of UPC of North East India.

For the defendants:

The defendants had produced the following witnesses namely -

1. Rev. R. Lalrinsanga S/o Vanlalliana (L), Electric Veng- Aizawl (Hereinafter referred to as DW-1)
2. P.C. Hrangsailova S/o Rangkhuma (L), Zemabawk- Aizawl (Hereinafter referred to as DW-2)
3. Upa Sanghmingthanga S/o Rohnuna, Ramhlun Vengthar, Aizawl (Hereinafter referred to as DW-3)
4. Upa Thangkima S/o Thangbuanga (L), ITI Veng, Aizawl (Hereinafter referred to as DW-4)
5. Upa Ngurkunga S/o Laihnawka (L), College Veng, Aizawl (Hereinafter referred to as DW-5)
6. Upa Varkapzawna S/o Varneihkhama, Armed Veng South, Aizawl (Hereinafter referred to as DW-6)

The **DW-1** in his examination in chief deposed that he is presently the General Secretary of the UPC of North East India representing the General Superintendent of UPC North East India by executing Power of Attorney. He is serving as a full time minister in the North Mizoram District UPC under UPC of North East India for 16 years as District Treasurer, District Sunday School Secretary/Treasurer etc. during 1979 to 1994. The administration of the UPC of North East India covers the whole area of the states of the North Eastern region. In the instant dispute properties within Aizawl East District UPC (NEI), Unit/Local Church of Bethlehem Vengthlang, ITI Veng, College Veng, Armed Veng South, Bazar Veng (Aizawl), Ramhlun Vengthar and Zemabawk North, he has an interest as representing the General Superintendent of UPC of North East India by executing Power of Attorney. The plaintiffs 1-7 are not the Chairman of the respective Church Board Committees of UPC, Bethlehem Vengthlang, ITI Veng, College Veng, Armed Veng South, Bazar Veng (Aizawl), Ramhlun Vengthar and Zemabawk North respectively during filing of the suit. They are rather self styled UPC after they had left the original UPC churches. Thus, there is no locus standi to file the suit. The properties both moveable and immovable of UPC Unit Churches were belonging to the defendants 1-2.

With regards to ITI church, he deposed that the plaintiff no. 2 was suspended from his primary membership under Resolution No. 24 of the Executive Board of UPC (NEI), so, he formed self style church unit. On 30.1.1986, the suit land at ITI was purchased and put in the name of UPC ITI Veng. Due to illegal claim of the plaintiff no. 2, the construction work under RCC is not yet completed.

With regards to College Veng Church, he deposed that Upa Dokhama was the Chairman of UPC, College Veng, Church Board at the time of filing of the suit. The plaintiff no. 3 was also suspended from his primary membership under Resolution No. 24 of the Executive Board of UPC (NEI), so, he formed self style church unit. On 14.2.1974, the suit land was purchased, the Unit Church under UPC (NEI) had constructed church building and started worshipping since 1974 till closed down. The correction of DLP. Misc 12/93 under Memo No. K. 15013/12/92-Rev dt. 25th July, 1994 is illegal and is void as done without the prior consent of the UPC (NEI).

With regards to Armed Veng South church, he deposed that it was formed on 24th June, 1974 by Rev. R. Hrangvunga, the then Sectional Pastor of Bethlehem Section. Since 17th August, 1975 they started worshipping in the suit land and building, the land was also allotted as applied by UPC (NEI).

With regards to Ramhlun Vengthar church, he deposed that the church board committee chairman is Upa Sanghmingthanga not the plaintiff no. 6. The plaintiff no. 6 was previously a member of the unit church of UPC (NEI), Ramhlun Vengthar. The UPC Church at Ramhlun Vengthar was started since 1985. After Assam type building, RCC building

was constructed, before issuance of Land Pass, they left the UPC (NEI) and manipulated the pass in their favour.

With regards to Zemabawk North church, he deposed that on the day when selling of previous land to Mr. Rothangpuia on 26/8/1989 in consideration of Rs. 4,00,000/-, the suit land under LSC No. 6/86 was purchased at Rs. 1,30,000/- which was handed over by Rev. R. Pahlira, the then Sectional Pastor of UPC (NEI) in the presence of Rev. Hrangvunga, District Secretary and Rev. R. Lalrinsanga, District Treasurer at the residence of Sectional Pastor. Out of Rs. 4,00,000/-, the son of the said Rothangpuia donated Rs. 15,000/- for construction of church building. As started construction in 1989, it was completed in 1992. The plaintiff no. 7 have no right to retain LSC/Pass in his name.

In his cross examination, he deposed that the claimed of plaintiffs 1 and 5 is already settled amicably during pendency of the suit. The passes of the suit land were issued in the name of their respective local churches by the Revenue authority. He admitted that Govt. order in 'Hriattirna' Dt. 25/7/1994 is superseded by Govt. order in 'Hriattirna' Dt. 13/1/1997. He denied that they left the UPC of Mizoram.

The **DW-2** in his examination in chief deposed that he is presently the Church Board Secretary of UPC (NEI), Zemabawk Unit. He knows that on the day when selling of previous land to Mr. Rothangpuia on 26/8/1989 in consideration of Rs. 4,00,000/-, the suit land under LSC No. 6/86 was purchased at Rs. 1,30,000/- which was handed over by Rev. R. Pahlira, the then Sectional Pastor of UPC (NEI) in the presence of Rev. Hrangvunga, District Secretary and Rev. R. Lalrinsanga, District Treasurer at the residence of Sectional Pastor. Out of Rs. 4,00,000/-, the son of the said Rothangpuia donated Rs. 15,000/- for construction of church building. As started construction in 1989, it was completed in 1992. The plaintiff no. 7 has no right to retain LSC/Pass in his name.

In his cross examination, he deposed that since 1987, he worship in the Zemabawk North church. Soon after closing the church building of Zemabawk North, they worship in the main local church. He did not know that there is no court case preferred by the UPC (NEI) in regards to the suit LSC put in the name of Mr. Sangliana and the Government also did not make any case against him.

The **DW-3** in his examination in chief deposed that he is presently the Secretary of UPC (NEI), unit church of Ramhlun Vengthar and was a chairman of the same at the time of filing of the suit. The General headquarters of UPC (NEI) contributed Rs. 10637/- for construction of the church building. While applying land pass, the plaintiff no. 6 with his colleagues had obtained the said pass in their name like "of Mizoram" maliciously. Till closing of the suit church building, they continued to worship in the said building as the owner.

In his cross examination, he deposed that the Assam type building constructed under the fund received from the General headquarters of UPC

(NEI) which contributed Rs. 10637/- was already dismantled and already constructed RCC building in the suit land. For changing name of the holder of the suit Misc Pass by the UPC of Mizoram, he admitted that they did not prefer any complaint to the Revenue authority.

The **DW-4** in his examination in chief deposed that he is presently the Church Board Secretary of UPC (NEI), ITI veng Unit/local church. The UPC ITI church was formed by Rev. H. Vantluanga, the then Sectional Pastor of Bethlehem Section on 9th Jan., 1985, the suit land was purchased on 30th Jan., 1986 from Mr. Chalchhunga in the name of UPC ITI veng under UPC (NEI) for Rs. 35,000/- and converted into LSC No. 1315/89 in the name of UPC ITI Veng. For the said purchasing amount, the General Headquarters of UPC (NEI) contributed Rs. 19,000/- from North Mizoram District Headquarters. The plaintiff no. 2 was suspended from his primary membership under Resolution No. 24 of the Executive Board of UPC (NEI), so, he formed self style church unit. Due to illegal claim of the plaintiff no. 2, the construction work under RCC is not yet completed.

In his cross examination, he deposed that he did not know that the suit pass is presently in whose possession. He admitted that the member of UPC of Mizoram at the time of split will be two third of the earlier UPC members. He did not know the reasons for their application to close the suit church due to their less number of church members.

The **DW-5** in his examination in chief deposed that he is presently the Church Board Chairman of UPC (NEI), College veng Unit/local church. Upa Dokhama was the Chairman of UPC, College Veng, Church Board at the time of filing of the suit. The plaintiff no. 3 was also suspended from his primary membership under Resolution No. 24 of the Executive Board of UPC (NEI), so, he formed self style church unit. On 14.2.1974, the suit land was purchased, the Unit Church under UPC (NEI) had constructed church building and started worshipped since 1974 till closed down. The correction of DLP. Misc 12/93 under Memo No. K. 15013/12/92-Rev dt. 25th July, 1994 is illegal and is void as done without the prior consent of the UPC (NEI).

In his cross examination, he deposed that when verification of members who were willing to remain in the previous North Mizoram District or the new Aizawl East District conducted by them, he admitted that members who chosen to remain in the previous North Mizoram District were larger. The Aizawl East District of UPC and North Mizoram District UPC were under the UPC (NEI). He denied that the number of UPC (NEI) were larger than the members of UPC of Mizoram at the time of split.

The **DW-6** in his examination in chief deposed that he is presently the Church Board Chairman of UPC (NEI), Armed Veng South Unit/local church. The Armed Veng South UPC church was formed on 24th June, 1971 by Rev. R. Hrangvunga, the then Sectional Pastor of Bethlehem Section. Since 17th August, 1975 they started worshipping in the suit land and building, the land was also allotted as applied by UPC (NEI). The plaintiff no. 4 was not the chairman of church board of Armed Veng South UPC but

Upa Hrangduna was the chairman at the time of filing of the suit. Due to his anti church activities, the plaintiff no. 4 was suspended from his primary membership under Resolution No. 24 of the Executive Board of UPC (NEI), so, he formed self style church unit.

In his cross examination, he deposed that he admitted that during 1971, he was only 10 years old, his deposition in examination in chief stating the emerged of Armed Veng South UPC church in 1971 was beyond his personal experience and knowledge. He never saw the disputed land pass and also not knowing in whose possession. The disputed church was constructed in 1974 and inaugurated in 1975 by Rev. Hrangvunga.

ARGUMENTS/TERMS OF RIVALRY

In the Argument, Mr. L.H. Lianhrima, learned counsel for the plaintiffs holistically stated that on cross examination of the DW No 1, Rev R.Lalrinsanga by the Learned Counsel of the Plaintiffs, Rev R.Lalrinsanga deposed as follows *“Plaintiff No 1 leh Plaintiff No 5 te hi an inrem tawh avangin thubuai a awm tawh lo” “Bethlehem Vengthlang Kohhran inremnaah hian tualchhung kohhran aiawhin Upa S. Thangengtluanga, Secretary, Mizoram UPC leh Upa C.Hrangzuala, Secretary, UPC(NEI) ten hming an sign a, VCP leh President YMA, Bethlehem Vengthlang ten hriatpuitu annih angin hming an sign”*. It is respectfully submitted that the DW No 1, Rev R.Lalrinsanga has clearly stated on his cross examination that Plaintiff No 1 and Plaintiff No 5 had already settled amicably the matter outside the court and the Defendant No 1 and 2 did not even participate in the negotiation of their negotiation. To be more exact, the Defendant No 1 & 2 have not even subscribed their signatures in the said AGREEMENT. This clearly indicated that the Defendant No 1 and 2 do not have any authority to interfere in the suit properties as the local church is the sole authority with regards to the disputed properties either immovable or moveable. As such, the defendant no 1 and 2 do not have any legal or moral right to interfere with the instant title suit.

That Rev. R.Lalrinsanga further stated on his cross examination as follows: *“Heng Kohhran pasarih buai, ram inchuh mekah hian Revenue in pass a issue vek a ni. Heng Revenue Pass te hi a local church kohhran hming zelin pek chhuah a ni”*. *“Ka Examination-in-Chief para 6 a ka sawi ang hian tualchhung bungrua lak sawn theih leh theih loh te hi Unit Church/Local Church hminga register zel a ni e I tih hi a dik. Heng document ah te hian UPC NEI tia ziaklan kher erawh a nilo”* It is humbly submitted that as per Revenue Laws, pass holder is the pass owner and Revenue Pass is issued to the holder/owner of the said pass. Needless to add, the registered owner is the owner without any doubt. If anyone challenges or disputes the ownership of the said passes in respect of the land where churches were constructed, the matter should be decided in accordance with the Revenue laws in existence.

With regards to DPL-Misc 12/93, Mr. L.H. Lianhrima contended that the registered owner is the UPC of Mizoram, College Veng as per the pass duly issued to the Plaintiff No 3. The DW No. 1, Rev R.Lalrinsanga stated in his cross examination that.....*“DPL – Misc 12/93 ah hian registered owner-*

ah Plaintiff te hian UPC of Mizoram tiin ni 31-7-'95 khan Revenue Department ah an lo zuk thlak tir a, an thlak hma hian UPC Kohhran Committee, College Veng tia register a ni. Hetia thubuai aum laia hming an lo thlak avang hian suit hranpa kan siam lova, amaherawh chu Revenue Department-ah leh a court-ah khan complaint kan thehlut" This clearly indicated that the Defendant No 1 and 2 have full knowledge of the mutation of the Misc 12/93 into the name of the Plaintiff. However, the Defendant No 1 and 2 failed to take any appropriate action by filing a suit against the Plaintiff and the government who transferred the ownership of the suit land nor did they file counter claim against the Plaintiff. Moreover, the transfer of landed property covered by DPL-Misc 12/93 was affected on 31-7-'95 while the instant suit was instituted in the year 1996 only. This clearly indicated that the transfer of the registered owner with regards to the suit land covered by Misc 12/93 was made before the present suit was filed. Hence, the contention of the PW No 1, Rev R.Lalrinsanga is without any basis whatsoever. The DW No 1, Rev R.Lalrinsanga admitted the fact that Misc Pass No 16/95 has been registered in the name of Chairman, UPC of Mizoram, Ramhlun Vengthar as follows that.....*"Misc Pass No 16/95 hi Chairman, UPC of Mizoram, Ramhlun Vengthar hminga register a ni. Thubuai kallai mek a nih avangin Court-ah complaint kan thehlut a. Amaherawh chu, he thilah hian a hranpa in thubuai kan siamlo"* It is respectfully submitted that the DW No 1 clearly admitted the fact that neither suit nor counter claim has been filed against the Plaintiff as well as the Revenue Department for transferring the ownership of the suit land under Misc Pass No 16/95 into the name of the Plaintiff. Since the defendants are not at all aggrieved of the mutation of the disputed land by filing Title Suit or Civil Suit before the proper forum during the relevant period of time, it can be construed that they have accepted the fact that the Plaintiffs are the sole authority of the suit land and the defendants are legally estopped from raising any objection at the belated stage. The DW No 1, Rev R.Lalrinsanga also admitted the fact that LSC No 6/86 located at Zemabawk has been registered in the name of Upa Sangliana, Chairman, Church Board Committee, UPC Zemabawk North and the defendants have not filed any suit against the registered owner or the Church Board Committee or submitted any counter claim against the instant suit. The deposition of the DW No 1, Rev R.Lalrinsanga runs thus.....*"LSC No 6/86 his Upa Sangliana, Chairman, Church Board Committee, UPC Zemabawk North hminga thlak ani a, Court-ah leh Revenue Department ah complaint kan thehlut. Amaherawh chu thubuai hranpa erawh chu kan thehlutlo"*(Para No 20 of his cross examination). It is also submitted that the defendants are not at all aggrieved of the transfer of the suit land covered by LSC No 6/86 in the name of the Chairman, Church Board Committee, UPC Zemabawk North as they have claimed to have simply submitted complaint to the Revenue Department as well as to the court. Above all, the so called complaint submitted by the Defendants is neither available with the case record nor exhibited by the DW No 1. As such, the same cannot form any evidence as per provision. He appreciated evidence of DW No 1 namely- Rev R. Lalrinsanga that he also clearly admitted in unambiguous term that in the instant Title Suit involving 7 (seven) churches, Revenue Pass have been issued by the Revenue Department to the local church in the name of LOCAL CHURCH AUTHORITY. The deposition of the DW No 1, Rev

R.Lalrinsanga may be reproduced as follows *“Heng kohhran pasarih buai, ram inchuh mekah hian Revenue in pass a issue vek ani. Heng Revenue Pass te hi a local church kohhran hming zelin pek chhuah a ni”*. This clearly indicated that the Defendant No 1 and 2 (UPC NEI) has absolutely nothing to do with the ownership, jurisdiction and authorities of the local Church Board Committee as the local Church Board Committee is the sole authority in respect of the properties either moveable or immovable. Otherwise, all the immovable or moveable properties should have been registered in the name of the UPC North East India. It is reiterated that the registered owner or the Pass holder is the owner of the property. A land owner is known from the registered owner/pass holder while the owner of a vehicle is known from the registered owner. Otherwise, the main purpose of getting registered a vehicle or landed property will not serve. Needless to add, one can claim ownership purely on the basis of the Registration of a vehicle or land. This means that the Defendant No 1 and 2 do not have legal or moral right to claim the properties, immovable or moveable. Mr. Lianhriam further submitted that the Defendants produced and examined DW No 2, P.C. Hrangsaiova (40 years) of Zemabawk who was just a primary member and not even a church elder at the relevant time of the incident when the UPC was split in the year 1994 cannot be said to be a material witness. The evidence he adduced is purely and entirely hearsay evidence and he has no direct evidence to adduce in connection with the instant suit. However, the DW No 2, P.C. Hrangsaiova clearly admitted that the LSC No 6 of 1986 has been registered in the name of Pu Sangliana by saying that *“LSC 6 of 1986 hi tunah Pu Sangliana hmingin a awm” “Pu Sangliana hminga LSC awm hi a khinna NEI (UPC) atangin a awm leh awm loh ka hre lo. Tin, sawrkar lam pawhin hemi chungchang thubuai an siam sakna a awm leh awm loh ka hre lo”*.

The DW No 1, Rev R.Lalrinsanga also admitted that HRIATTIRNA dated 25th July, 1994 vide Memo No.K.15013/13/92-REV has been superseded by another HRIATTIRNA dated 13th January, 1997 vide Memo No.K.15013/13/92-REV by saying that *“Sawrkar order Hriattirna dated 25-7-1994 ka sawilan hi Sawrkar Hriattirna dated 13-1-1997 hmangin thlak thleng ani”* It may be pertinent to mention herewith that the Hriattirna dated 25th July 1994 was issued under the undue influence of the Defendants and misconception of the provision of Revenue Laws certain officials as not even a single pass in respect of the local church of UPC has been issued in the name of UPC, North East India General Headquarters. The issuing authority has apparently been misguided by some influential official into believing that the passes are issued in the name of the UPC NEI without seeing the passes. He further stressed that it may be pertinent to mention that the Defendant Witness No 1, Rev R. Lalrinsanga in the Title Suit No 2/96 admitted on cross examination by the counsel of the Plaintiffs that *“Kan rules and regulations chang 11 ang hian, ‘He pawl bungrua reng reng, sawn theih emaw, theih loh emaw, enkawl leh humhalh thute, kohhran hnathawh kal zel chhuizauna leh bawhzuina chite chu Executive Board kutah General Secretary hmingin a awm vek ang’ tih ang diak diak hi chuan kan bungrua neih te hi chu a awm vek lo a ni. General Secretary hminga Khuangpuilam Orphanage Home awm nia I sawi hi ka en chian loh chuan ka hre lo”*

It is respectfully submitted that as per Rule 11 of the Rules and Regulations of the United Pentecostal Church of North East India (UPC, NEI), all the properties both moveable and immovable and records and research with regards to the church activities as well as progress should be kept under the custody of the Executive Board duly registered in the name of the General Secretary. It is further submitted that the only immovable property that was registered in the name of the General Secretary, UPC of NEI is the Khuangpuilam Orphanage Home. As such, the Defendant No 1, UPC of NEI do not have any legal or moral right to claim the suit properties either immovable or moveable.

As per section 2(8) of the Mizo District (Land and Revenue) Act, 1956, *“Settlement holder” means any person other than a pass holder, who has entered into an engagement with the District Council to pay land revenue and is deemed to have acquired status of settlement holder under section 7.”*

As per section 2(11) of the Mizo District (Land and Revenue) Act, 1956, *“Pass-holder” means a person who has the temporary right of use and occupancy over a specified plot of land for a specified period under such terms as the Executive Committee may prescribe in the pass he holds.*

Mr. L.H. Lianhriam therefore submitted that all the passes in respect of the land where church buildings, offices and pastor quarters are constructed have been issued in the name of the Local Church and not even a single pass is issued in the name of UPC of NEI. As such, the defendant no 1 does not have a locus standi to claim the suit lands and buildings. It is further submitted that the all the lands where church buildings, Pastor quarters and offices have been constructed were purchased by the Plaintiffs and their members from the contribution and collections of the Plaintiffs and their members in their respective locality. In fact, the Plaintiffs and their members had to work very hard during the past many decades for the lands, church buildings, pastor quarters and headquarters office buildings on their own. This is the main reason why all the land passes have been issued in the name of the local churches who are the sole authorities in respect of the properties either immovable or moveable.

According to the Judgment & Order dated 4-10-2002 passed by the Hon’ble Gauhati High Court in the case of **Imlitemjen Jamir & Others – vrs- State of Nagaland & Ors** which was reported in 2004(SUPPL.) GLT 71 it is held that it is settled principle of law that after the land was allotted to a person, a right has accrued to him. This clearly indicated that the registered owner is the legal and lawful owner of the land in question. As such, the defendant no 2, UPC of NEI whose name has not been found in the Passes in respect of the suit land and building do not have a right to claim the same as per provision.

Mr. L.H. Lianhrima further argued that it may be pertinent to mention herewith the fact that as many as twenty five disputed churches in the entire State of Mizoram had been amicably settled outside the court so far without taking permission from the defendant no. 2, UPC of NEI. For instance, the disputed landed property at Bethlehem Vengthlang had been amicably settled outside the court during the pendency of the suit before the Hon’ble Senior Civil Judge, Aizawl in Title Suit No 1 of 1996 without

consulting with the defendant No 2, UPC of NEI. This clearly indicated that the defendant no 2 does not have any authority over the local church as the local church committee is the sole authority over the properties of the local church. A copy of INREMNA dated 23-8-2010 duly signed by the respective Secretaries of Mizoram UPC and UPC (NEI) in presence of the VCP and the President, YMA, Bethlehem Vengthlang Branch which has been accepted by the Hon'ble Court is annexed herewith for perusal and ready reference. Further, a copy of INREMNA dated 9th April, 2008 duly signed by the Chairman and Secretary of the rival parties in presence of reliable witnesses at Vairengte South and Bairabi North. It is voluminously clear from the copies of INREMNA aforementioned that the defendant no 1, UPC of NEI does not have any authority over the local churches as all the AGREEMENT with regards to the suit land and buildings have been signed by the local church committee and the defendant no 1 or his representative has not even put his signature at all. In fact, the defendant no 1 is neither required to be consulted nor have any authority for settlement of the dispute over the properties either immovable or moveable.

In view of the facts and circumstances of the case and taking into account the LSCs/Misc Passes/Land Lease duly issued by the competent authority, Mr. L.H. Lianhrima had prayed to allow the instant suit accordingly.

Mr. W. Sam Joseph, learned counsel for the defendant argued that the suit cannot be maintained in its present form and style. It is clear that the plaintiffs have filed the present suit in their personal capacity, if not they should have obtained permission to file the suit in representative capacity as per the provisions of Order 1 Rule 8 of the Civil Procedure Code. The plaintiffs therefore could not file the suit in their names without obtaining permission to file in representative capacity. The plaintiffs' church i.e. the UPC of Mizoram was not registered and they are not legal entity and they could file the suit only in representative capacity as the said properties claimed by the plaintiffs belongs to the defendants nos. 1 and 2 and their unit churches. The plaintiff no.2 Shri Nghakliana stated during cross-examination that *"It is a fact that Rev. Pahlira was one of the Pastors under UPC (NEI). It is a fact that when I was selected/elected as chairman of the Church Board Committee of UPC ITI Veng, the meeting was chaired by Rev. Pahlira."* Nowhere in the plaint there is a mention that the plaintiffs have filed the suit in representative capacity. Shri Lalhmingthanga Sailo, plaintiff no.4 stated during cross examination that *"It is a fact that the church land wherein the church building is located was claimed by me for our church was obtained when I was the chairman under UPC NE India."* During the examination in chief PW Shri H.Lalrawngbawla stated that *"Upa Thanhlira kan thlak: Kan Biakin chu hawn leh a, a neitu dik takten inkhawmna atana kan hman leh ngei theihna tan 1995 a kan kohhran Chairman Upa Thanhlira hmingin Court-ah kan khing ta a. Kan Upa Thanhlira chu a pem leh tak avangin a aiauh turin Kohhran Committee chuan Upa VL Hmangaiha kan ruat leh ta a ni."* The PW Sangliana of the Zemabawk church stated that *"Hetih hun laiah Zemabawk UPC Chairman ka nih avang hian ka hmingin he suit hi file a ni ta a ni."* From the deposition of the plaintiffs themselves stated that they had filed in their capacity as the chairman of the Church Board Committee which was not a registered body. As the plaintiffs have not

obtained permission from the court to file in representative capacity, the suit cannot be maintained in the present form, hence the suit filed by the plaintiffs is to be dismissed and the relief claimed by the defendants nos.1 and 2 is to be decreed as the defendants nos. 1 and 2 belongs to the Registered society of the UPC NE India. In this connection the defendant is a head of the registered Society under the Societies Registration Act and the defendant can sue and be sued in the name of the Society or the head of the society. Hence the said issues are to be decided in favour of the defendants nos. 1 and 2 against the plaintiffs.

Mr. W. Sam Joseph also stated that during the course of adducing evidence, the plaintiffs themselves had admitted the fact that they were part of the UPC NEI till the UPC of Mizoram was formed in the year 1995. Defendant no.2 Shri Nghakliana during cross examination stated that *"It is a fact that when the land covered LSC No. 1315/89 was purchased in the name of UPC, ITI Veng the said Church was one of the unit of the North Mizoram District UPC under UPC, NE India. It is a fact that prior to 1995 I.T.I Veng UPC Church was one of the unit under UPC. North Mizoram District, which is under UPC NE India."* Upa Lalvarparha stated in examination in chief that *"Kohhranin harsatna kan tawk: Rawngbawlna kawnga hlim taka kan aumho dial dial lai 1994 May thlaah khan, kan thawhpui UPC, NEI te chu phelin North Mizoram District tih leh Aizawl East District tiin an lo inthen ta a. Kan thawhpui hmasa North Mizoram District kan zawmna chu chhu chatin East District pawh zawm tawh chuang lovin College Veng UPC tiin kan ding ta tawp mai a."* Plaintiff no. 4 Lalhmingthanga Sailo stated that *"It is a fact that the church land wherein the church building is located was claimed by me for our church was obtained when I was the chairman under UPC NE India."* Plaintiff's witness H. Lalrawngbawla stated during cross examination that *"It is a fact that the land and building covered by Misc 16 of 1995 in the Ramhlun Vengthar church belongs to unit church of UPC NEI."* Shri H.Vanlalvena stated during cross examination that *"I know that the UPC of Mizoram Ramhlun Vengthar Church member had damaged the Jubilee Lung prepared by Ramhlun Vengthar church under UPC NEI but I do not know about the compensation paid by the Ramhlun Vengthar UPC Church of Mizoram to the Ramhlun Vengthar Church of UPC NEI."* Even other witnesses examined on behalf of the plaintiffs have admitted clearly that they were part of the UPC NEI before the Mizoram UPC Church was formed. The plaintiffs are estopped from denying the fact that the plaintiffs left the UPC NEI and formed the UPC of Mizoram. Hence the said issue is to be decided against the plaintiffs and in favour of the defendants. He further added that the suit should be dismissed for not adding the Chairmen of Local Church Board Committees of unit churches in I.T.I Veng, College Veng, Armed Veng 'S', Ramhlun Venthlar and Zemabawk North of the UPC NEI and also the District Superintendent of the North Mizoram District of UPC NEI as parties. All the said parties are necessary parties, hence it is hit by Order 1 proviso to Rule 9 CPC. By not making the said persons as parties, the plaintiffs have accepted the leadership of the defendants nos. 1 and 2 to be the owner of all the churches under the UPC North East India.

Mr. W. Sam Joseph further submitted that from the evidence on record it is clear that the plaintiffs are only individuals and they were all

members of the unit churches under the defendant nos. 1 and 2 and they voluntarily left the Unit Churches of the UPC NEI in their locality and started separate service under the UPC of Mizoram. All the plaintiffs were bound by the constitution and byelaws of the plaintiff church since the said church was a registered body. Hence the members are bound by the all the rules/byelaws constitution etc. As per the bye laws. He also argued that it is clear from the evidence adduced by the plaintiffs it is clear that the plaintiffs were part of the UPC NEI and they left the church voluntarily.

Mr. W. Sam Joseph vehemently submitted that from the evidence on record it is clear that after the plaintiffs left the unit/local churches under UPC North East India, the unit churches under the UPC North East India continued to worship at all the seven churches. As pointed in the discussion of the Issue no.6 it is clear that all the plaintiffs were part of the UPC NEI before the UPC of Mizoram was formed in the year 1995 and before the plaintiffs left the UPC NEI churches and joined the UPC of Mizoram churches, they were all governed by the Constitution, Rules and byelaws of the UPC North East India and as per the said byelaw quoted above all the properties would belong to the defendant nos. 1 and 2 and their churches. Now that the said seven churches left the UPC North East India, they lost their existence and they are like some individual gathering of people for worship, however, it would not be out of place to mention that the 7 churches of the said seven localities under the UPC North East India is still exists and they continue to worship the Lord Jesus Christ in their respective place of worship. Since the plaintiffs intentionally did not make the seven churches under the defendants nos. 1 and 2 or UPC NEI as parties they continue to function under the UPC NEI, hence the question of the breakaway group headed by the plaintiffs cannot have any existence outside the UPC NEI. Hence, the present issue is also to be decided against the plaintiffs and in favour of the defendants nos. 1 and 2. It is further clear from the evidence of the plaintiff Mr. Lalhmingthanga Sailo that the there was no UPC of Mizoram before 1995. The starting of the UPC church was done under the leadership of Schism who came from the United States of America. He clearly deposed before your honour during cross examination how the UPC NEI was formed.

Mr. W. Sam Joseph further augmented his arguments that it is clear from the evidence on record and as mentioned earlier, the plaintiffs have no locus standi to file the suit as they have not filed the present suit in representative capacity. Though the plaintiffs stated that they have filed the suit on behalf of the UPC of Mizoram, the plain reading of the plaint shows that they had file in their individual name and not in representative capacity. Moreover as started above if the suit was in representative capacity, they should have obtained the permission from the court. The fact that the plaintiffs have not obtained any permission to file the suit in representative capacity, the suit is to be dismissed. But as the counter claim was made in the prayer portion of the written statement the defendant prayed for declaring the defendants Nos. 1 and 2 and the local Churches of UPC NEI of ITI Veng, College Veng, Armed Veng 'S', Ramthar Vengthar and Zemabawk North to be the owner of the properties claimed by the plaintiff No. 2 to 4, 6 and 7 jointly and restrain the plaintiff No. 2 to 4, 6 and 7 from

disturbing the possession of these properties by the defendants nos. 1 and 2 and the aforesaid local/unit churches under UPC NEI.

As the plaintiffs made an attempt to show that the UPC of Mizoram was in existence even before the UPC North East India was registered, but from the history of the UPC Church in Mizoram and from the evidence of the Plaintiff no.4 Mr. Lalhmingthanga Sailo and other plaintiffs and their witnesses and the defendants witnesses, it is clear that the UPC came to Mizoram due to the arrival of Rev. Schism and those who were having Pentecostal leanings were taken to the fold of the UPC started by Schism and for convenient sake the UPC North East India was registered as an Association/society in the year 1969. There was no separate identity as UPC of Mizoram prior to 1995 all persons under UPC became part and parcel of the UPC North East India and under UPC North East India there were many districts and one of the districts and under those districts the local churches existed. Whatever properties acquired during the period when the plaintiffs were part and parcel of the UPC NE India belongs to the defendants 1 and 2 and the local/ unit churches under the UPC NE India. From the evidence on record the court is left with no other option but to reject the prayer of the plaintiffs and to allow the prayer of the defendants nos.1 and 2. In this connection I would like to point out that Learned Additional District Magistrate (Judicial), Lunglei District Pi Lucy Lalrinthari in the case of Title suit no.3 of 1996 and Title Suit no.1 of 2001 it was decided in favour of the UPC North East India. In the said judgments it was decided that the District Board of UPC NEI is the legal and rightful owner of the church. Though copies of Judgment and orders in two suits were duly received by the UPC of Mizoram they have not preferred any appeal. Hence the plaintiffs in this case also will not have any grievance if the judgment and order is passed in favour of the defendant.

Mr. W. Sam Joseph therefore concluded his arguments with a prayer to declare that all the properties acquired by the unit/local churches under UPC NEI prior to 1995 belongs to the District Board of the UPC NE India or the local/unit churches of the UPC, NEI.

FINDINGS

Issue No. 1

Whether the suit is bad for non-joinder of parties.

Learned counsels for defendants argued that the Local Church authorities were not impleaded as defendants is non-joinder of necessary parties supplemented by some depositions of the DWs. Meanwhile, the instant suit is filed during 1996, at a very belated stage, in my opinion, lacunae is found on maintainability of the suit requires to cure. However, it impelled to look the settled laws with regards to necessary parties. In **Iswar Bhai C. Patel & Bachu Bhai Patel Vs. Harihar Behera & Anr.** decided on 16/03/1999 and reported in 1999 AIR 1341, 1999 (1) SCR 1097, 1999 (3) SCC 457, 1999 (2) SCALE 108, 1999 (2) JT 250, their Lordship of Hon'ble Supreme Court has held that-

“These two provisions, namely, Order 1 Rule 3 and Order 2 Rule 3 if read together indicate that the question of joinder of parties also involves the joinder of causes of action. The simple principle is that a person is made a party in a suit because there is a cause of action against him and when causes of action are joined, the parties are also joined.”

And in **U.P. Awas Evam Vikas Parishad Vs. Gyan Devi (Dead) By Lrs. & Ors.** decided on 20/10/1994 in connection with Appeal (civil) 7067 of 1994 reported in 1995 AIR 724, 1994 (4) Suppl. SCR 646, 1995 (2) SCC 326, 1994 (4) SCALE 755, 1994 (7) JT 304, the Hon’ble Supreme Court observed thus-

“The law is well settled that a necessary party is one without whom no order can be made effectively and a proper party is one in whose absence an effective order can be made but whose presence is necessary for a complete and final decision of the question involved in the proceeding. (See: Udit Narain Singh Malpaharia v. Additional Member, Board of Revenue, [1963] Supp. 1 SCR 676, at p. 681.”

The points advanced by the defendant is that the suit is failed without impleadment of the Local Church authorities of the UPC of North East India, on examining the nature and circumstances of the case, even without impleadment of the Local Church authorities of the UPC of North East India, certainly, the suit could be fruitfully adjudicated without impleadment of the Local Church authorities of the UPC of North East India as seriously contested of the defendant and evidence on the suit properties also adduced. Admittedly, the defendant UPC of North East India is a registered society under the Societies Registration Act, 1860 governed by the said Act, subject to their bye laws, suits by and against them may sue or be sued in the name of the President, Chairman, or Principal Secretary or trustees, the defendant is obviously the General Superintendent of UPC of North East India competent to be sued as per S. 6 of the Societies Registration Act, 1860 as he act as the Head of the UPC of North East India by virtue of Paragraph No. 24 (1) of the Rules and Regulations of the UPC of North East India. This is issue is therefore affirmative in favour of the plaintiffs.

Issue No. 2

Whether the suit is barred by limitation.

As the Director of Land Revenue and Settlement Department, Govt. Of Mizoram is impleaded as the proforma defendant who is a non-tribal, the Limitation Act, 1963 will be applicable in the instant case as held by the Hon’ble Gauhati High Court in the case of **Lalchawimawia & Ors. Vs. State of Mizoram** decided on 5-5-1999 in connection with WP (C) No. 4 of 1996 reported in 1999 (3) GLR 100 and later in **L. Biakchhunga vs State Of Mizoram And Ors.** decided on 1/8/2005 and reported in (2006) 2 GLR 610. Meanwhile, the cause of action at ITI church had arose on 23.5.1994 as deposed by PWs 2, 3 and 4 of plaintiff no. 2, the cause of action at College

Veng Church was arose on 22nd May, 1994 as deposed by PWs 1, 2 and 3 of plaintiff no. 3, the cause of action at Armed Veng South church was arose on 29/5/1994 as deposed by PW-1 of plaintiff no. 4, the cause of action at Ramhlun Vengthar church arose on 23/5/1994 as deposed by PWs 2,3 and 4 of the plaintiff no. 6, the cause of action also appears arose at Zembawk not before during 1994. However, the instant suit is filed as a fresh suit during the middle part of 1996. Points for barring of limitation of the suit will not therefore sustainable.

Issue No. 3

Whether the suit is barred by the principles of estoppel, acquiescence and res-judicata.

Although the defendant raised the instant issue in their written statement, no evidence and other submissions were adduce to resolute the rival points. I therefore find no grounds on the applicability of the principles of estoppels, acquiescence and *res-judicata* in the instant case. This issue is again goes in favour of the plaintiffs.

Issue No. 4

Whether the suit is bad for improper valuation of the suit property.

Before dealing with merit of the issue, legal principles involved therein may enrich the findings like valuation of the suit is not only for the purpose of paying the Court Fees but it also plays an important role for determining the pecuniary jurisdiction of the Civil Court in the light of S. 15 of the CPC held in the case of **Ratan Sen alias Ratan Lal Vs. Suraj Bhan & Ors.** AIR 1944 All 1. Furthermore, in **Sri Rathnavarmaraja Vs. Smt. Vimla**, AIR 1961 SC 1299, the Supreme Court held that whether proper court fee has been paid or not, is an issue between the plaintiff and the state and that the defendant has no right to question it in any manner. The said judgment of the Apex Court was re-considered and approved in **Shamsher Singh Vs. Rajinder Prashad & Ors.** AIR 1973 SC 2384, observing as under:-

“The ratio of that decision was that no revision on a question of court fee lay where no question of jurisdiction was involved”

As no argument is heard on ousting pecuniary jurisdiction of this court in the instant case, I find no laches in this realm. Howsoever, the other above said lacunae may be filled up as exempted the region from the circumlocution of CPC under the proviso to S. 1 of the CPC as the then tribal areas under the Sixth Schedule to the Constitution of India till 21st January, 1972 read with S. 21 of the Mizoram Civil Courts Act, 2005 whilst the suit is filed before proper insulation of judiciary from the executive as desired under Article 50 of the Constitution of India even from the miscellany of O. VII R. 1 of the CPC and O. VI R. 15 of the CPC as supplemented by the observations of Hon’ble Apex Court in **Mahadev Govind Gharge & Ors vs Spl. Land Acquisition Officer**, Upper Krishna

Project, Jamkhandi decided on 10 May, 2011 in connection with Civil Appeal Nos. 5094 of 2005, the Supreme Court has observed thus-

“35. Procedural laws, like the Code, are intended to control and regulate the procedure of judicial proceedings to achieve the objects of justice and expeditious disposal of cases. The provisions of procedural law which do not provide for penal consequences in default of their compliance should normally be construed as directory in nature and should receive liberal construction. The Court should always keep in mind the object of the statute and adopt an interpretation which would further such cause in light of attendant circumstances.

36. To put it simply, the procedural law must act as a linchpin to keep the wheel of expeditious and effective determination of dispute moving in its place. The procedural checks must achieve its end object of just, fair and expeditious justice to parties without seriously prejudicing the rights of any of them.”

Also vide, **Shreenath & Another vs Rajesh & Others**, 1998 AIR 1827, 1998 (2) SCR 709, 1998 (4) SCC 543, 1998 (2) SCALE 725, 1998 (3) JT 244: **M.S. Grewal v. Deep Chand Sood**, (2001) 8 SCC 151: **Sushil Kumar Sen v. State of Bihar** (1975) 1 SCC 774: **The State of Punjab and Anr. v. Shamlal Murari and Anr.** (1976) 1 SCC 719.

With regards to another task on requisite court fees in the instant suit, whilst the suit is filed in 1996, the Court Fees (Mizoram Amendment) Act, 1996 (Act No. 5 of 1997) is made effective from 22nd April, 1997 vide, Notification No. G. 17013/8/96- FFC, the 21st July, 1997 published in the Mizoram Gazette, Vol. XXVI, 25.7.1997, Issue No. 30 [Part- II (A) p. 3]. Thus, there will be no question of lacunae on requisite court fees in the plaint and counter claim.

Issue No. 5

Whether the suit is bad for not giving notice u/s 80 CPC

In the instant suit, the Director, Land Revenue and Settlement Department, Govt. of Mizoram is merely impleaded as proforma defendant and he have no role to play prior to adjudication of the case by the court on merit as the main crux is only between the plaintiff and the defendant. In other words, there will be no waste of public money in the instant case whether to adjudicate in favour of the plaintiff or not. If legal notice be also served in due course of time, the proforma defendant could not take any action at all like in the instant case and mode of relief so claimed. In the case of **Manindra Ch. Paul vs State Of Tripura And Ors.** decided on 16 March, 2007 and reported in AIR 2007 Gau 103, 2007 (3) GLT 300, the Gauhati High Court has held that-

“12. That, as stated above, Section 80 of the Code of Civil Procedure is a part of procedural law by means of which the Court may do justice between the parties. Thus, the provision of

this Section requires to be interpreted liberally in a reasonable way to advance substantial justice to the public. The whole object of this Section is not to defeat the justice on mere technical ground and by interpreting it in a hyper-technical manner.”

And in **Gopesh Chandra Das v. The Chief Secretary to the Government of Assam and Ors.** (1989) 2 GLR 377 : AIR 1990 Gau 74, the Gauhati High Court discussed the object of Section 80 of the Code of Civil Procedure Notice and the manner of its interpretation. In the said case, the High Court observed as follows:

“...The object of the notice contemplated by Section 80 is to give to the concerned Governments and public officers opportunity to reconsider the legal position and to make amends or settle the claim, if so advised, without litigation. The legislative intention behind that section is that public money and time should not be wasted on unnecessary litigation and the Government and the public officers should be given a reasonable opportunity to examine the claim made against them lest they should be drawn into avoidable litigations. The purpose of law is advancement of justice. It must be remembered that Section 80 of the Code is but a part of the Procedure Code passed to provide the regulation, and machinery, by means of which the Court may do Justice between the parties. It is, therefore, merely a part of the adjective law and deals with procedure alone and must be interpreted in a manner so as to sub-serve and advance the cause of justice rather than to defeat it....”

So is the well settled law and in view of the nature of the instant case, non-compliance of S. 80 of CPC does not vitiate the instant proceedings.

Issue No. 6

Whether the plaintiffs have any *locus standi* to file the suit.

The very concept of doctrine of locus standi is illuminated by the Hon’ble Supreme Court in the case of **S.P. Gupta Vs. President Of India And Ors.** decided on 30/12/1981 reported in AIR 1982 SC 149, (1981) Supp (1) SCC 87, (1982) 2 SCR 365, the Constitution Bench of Hon’ble Supreme Court has held that-

“14. The traditional rule in regard to *locus standi* is that judicial redress is available only to a person who has suffered a legal injury by reason of violation of his legal right or legal protected interest by the impugned action of the State or a public authority or any other person or who is likely to suffer a legal injury by reason of threatened violation of his legal right or legally protected interest by any such action. The basis of entitlement to judicial redress is personal injury to property, body, mind or reputation arising from violation, actual or

threatened, of the legal right or legally protected interest of the person seeking such redress. This is a rule of ancient vintage and it arose during an era when private law dominated the legal scene and public law had not yet been born. The leading case in which this rule was enunciated and which marks the starting point of almost every discussion on *locus standi* is *Ex parte Sidebotham* (1980) 14 Ch D 458. There the Court was concerned with the question whether the appellant could be said to be a 'person aggrieved' so as to be entitled to maintain the appeal. The Court in a unanimous view held that the appellant was not entitled to maintain the appeal because he was not a 'person aggrieved' by the decision of the lower Court. James, L. J. gave a definition of 'person aggrieved' which, though given in the context of the right to appeal against a decision of a lower Court, has been applied widely in determining the standing of a person to seek judicial redress, with the result that it has stultified the growth of the law in regard to judicial remedies. The learned Lord Justice said that a 'person aggrieved' must be a man "who has suffered a legal grievance, a man against whom a decision has been pronounced which has wrongfully deprived him of something or wrongfully refused him something or wrongfully affected his title to something." This definition was approved by Lord Esher M. R. in *In Re Reed Bowen & Co.* (1887) 19 QBD 174 and the learned Master of the Rolls made it clear that when James L. J. said that a person aggrieved must be a man against whom a decision has been pronounced which has wrongfully refused him of something, he obviously meant that the person aggrieved must be a man who has been refused something which he had a right to demand. There have been numerous subsequent decisions of the English Courts where this definition has been applied for the purpose of determining whether the person seeking judicial redress had *locus standi* to maintain the action. It will be seen that, according to this rule, it is only a person who has suffered a specific legal injury by reason of actual or threatened violation of his legal right or legally protected interest who can bring an action for judicial redress. Now obviously where an applicant has a legal right or a legally protected interest, the violation of which would result in legal injury to him, there must be a corresponding duty owed by the other party to the applicant. This rule in regard to *locus standi* thus postulates a right-duty pattern which is commonly to be found in private law litigation. But, narrow and rigid though this rule may be, there are a few exceptions to it which have been evolved by the Courts over the years."

Snapping with the above well settled legal principles, the plaintiffs who were earlier under the administration of the UPC of North East India since 1969 as admitted but may be because of lust of leadership amongst their leaders split out from the administration of the UPC of North East India in 1995 must have a right at least to dispute with properties acquired

pre and post joined hands under the umbrella of UPC of North East India as certainly it would be acquired from the contribution of all the members of the organisation. Thus, being the Chairman of their respective Church Board Committees at their local level must have a *locus standi* in the instant suit as no other persons will be more competent in their side except them as plaintiffs to sue in the disputed properties.

Issue No. 7

Whether the plaintiffs were part of the UPC, North East India.

The findings in the cognate case under Title Suit No. 2 (A) of 1996 will be the same wherein, it was discussed that “The PW- 1 of plaintiff no. 2 deposed that on 19th Feb., 1950, UPC was established in the then Lushai Hills under the leadership of Rev. Zakamlova which is also deposed by PW- 2 of plaintiff no. 2 witnessed by the Book authored by Ellis L. Scism and Family titled “*India Calling*” at the result of the mission of Rev. E.L. Scism, Rev. R.A. Dover and Rev. N. Parmer (p. 26 and p. 87). The UPC of North East India was later formed in the then Mizo District on 20th March, 1969 as deposed by PW- 2 of plaintiff no. 2. Admittedly, the then UPC in Mizoram was merged with the UPC of North East India under the leadership with headquarters at Shillong, the State Capital of Meghalaya being bifurcated from UPC, India. Cogently, after forming the UPC of Mizoram during 1995 and as the instant case had arisen, now, the plaintiffs are not a part of the UPC of North East India. Before split into UPC of North East India and UPC of Mizoram, evidences and submissions of parties revealed that the plaintiffs were also diluted and as a member of the UPC of North East India since 20th March, 1969 although denied by PWs of plaintiff no. 4 in their depositions.” Thus, the UPC of Mizoram and UPC of North East India at Mizoram split into two under the same doctrine, tenets, faith, belief and other religious practices.

Issue No. 8

Whether the plaintiffs left the UPC, North East India and formed a separate Church. If so, why and when?

The findings in the cognate case under Title Suit No. 2 (A) of 1996 will be again the same wherein, it was thereby discussed that “The instant issue being the main yoke requires to trapeze in thrash. As already discussed under issue no. 7, on 19th Feb., 1950, UPC in Mizoram was established in the then Lushai Hills under the leadership of Rev. Zakamlova who was baptised by Rev. (Miss) R.A. Dover B.A., L. Th on 26th January, 1949 and ordained as a Minister on 19th Feb., 1950 (p. 87 of ‘India Calling’ Ellis L. Scism and Family). As deposed by plaintiff witness for the plaintiff no. 1, due to MNF insurgency broke out in the early part of 1966, and as deposed by PWs of plaintiff no. 2 and DW-1, the UPC of North East India was formed in Mizoram on 20th March, 1969. It was again lasted on 6th August, 1995 by forming the UPC of Mizoram as admitted. But, the UPC of North East India and UPC of Mizoram again disputed that who will be the original UPC in Mizoram. In this catena, facts is very clear that after emerged of the UPC in Mizoram, the UPC at North East India level was formed and also joined by the then UPC in Mizoram under same leadership with headquarters at

Shillong. Again split into two namely- UPC of North East India but located in Mizoram and UPC of Mizoram also located in Mizoram but as admitted, they are under the same doctrine, faith, tenet and religious practices. It may be more appropriated to term the division of UPC in Mizoram into two was “Split of UPC” by not term them as leaving by one group as their original faith, doctrine and practices remains the same and similar in toto. It further indicates that due to some or few ravenous leaders, the UPC in Mizoram was split into two. Although the plaintiffs alleged that the main cause of split was creation of Aizawl East District of UPC, but the root is cogently due to lust of leadership amongst their ministers/leaders may be resulted by the shortfalls/shortage of their Constitution/Bye Laws to curb such wrongdoers.”

Issue No. 9

Whether the UPC of North East India on the basis of its registration under the Societies Registration Act, 1860 in 1969 can claim the disputed properties as its own or through their units in Mizoram and whether the Bye Laws of the UPC of North East India is applicable in the instant case.

On the plain reading of the introductory part, the Societies Registration Act, 1860 (Act No. 21 of 1860) is *An Act for the Registration of Literary, Scientific and Charitable Societies*, in its preamble of the Societies Registration Act, 1860 (Act No. 21 of 1860), it further reads that –

“Whereas it is expedient the provision should be made for improving the legal condition or societies established for the promotion of literature, science, or the fine arts, or for the diffusion of useful knowledge, the diffusion of political education, or for charitable purposes”

S. 20 of the said Act further runs as-

“20. To what Societies Act applies.-

The following societies may be registered under this Act:-

Charitable societies, the military orphan funds or societies established at the several presidencies of India, societies established for the promotion of science, literature or the fine arts, for instruction, the diffusion of useful knowledge, the diffusion of political education, the foundation or maintenance of libraries or reading-rooms for general use among the members or open to the public, or public museums and galleries of paintings and other works of art, collections of natural history, mechanical and philosophical inventions, instruments, or designs.”

S. 5 of the said Act also reads thus-

“5. Property of society how vested.– The property, movable and immovable, belonging to a society registered under this Act, if not vested in trustees, shall be deemed to be vested, for the time being, in the governing body of such society, and in all proceedings, civil and criminal, may be described as the property of the governing body of such society by their proper title.”

The very concept and meaning of trustees will be ‘an individual or organization which holds or manages and invests assets for the benefit of another. The trustee is legally obliged to make all trust-related decisions with the beneficiary's interests in mind, and may be liable for damages in the event of not doing so. Trustees may be entitled to a payment for their services, if specified in the trust deed. In the specific case of the bond market, a trustee administers a bond issue for a borrower, and ensures that the issuer meets all the terms and conditions associated with the borrowing.’ In this view, “...*if not vested in trustees...*” will be attracted in the instant case. S. 5 of Chapter – 3 of the Bye Law No.4 of the United Pentecostal Church of North East India viz. ‘Local Bye Laws’ is pertinent that-

“5. CHURCH PROPERTIES:

- (1) All landed properties and church properties, moveable or immovable of any church existing under United Pentecostal Church in the North East India shall automatically become the properties of the United Pentecostal Church of the North East India
- (2) Any UPC member who shall no longer embrace the articles of faith and the Bye Laws shall have no right to claim church properties, moveable or immovable, and the church fund. He/She shall leave the church.
- (3) In case any local church shall defunct, all the church properties, moveable or immovable, shall become the properties of the District Board. The District Board shall be heir to such defunct Local Church”

In the instant case, as per the findings under issue No. 7, with effect from 20th March, 1969 till 1995 when mass broken of the UPC in Mizoram as the then UPC in Mizoram also merged with the UPC of North East India, clause (1) of the above will be attracted. With regards to clause (2) of the above, the language employed is “...no longer embrace the articles of faith and the Bye Laws shall have no right to claim...”, it means that only no longer embrace the articles of faith or only no longer embrace the Bye Laws will not loss any right to claim church properties, moveable or immovable, and the church fund. Clause (3) of the above is not attracted in the instant case.

As raised at the time of oral arguments, clause (1) of S. 2 of the Bye Law No.4 of the United Pentecostal Church of North East India viz. ‘Local Bye Laws’ clearly mentioned that “*Supreme Authority shall be vested in the*

Church Board in matter of administration of a local church". Clause (2) of the said Bye Laws further contemplated that "All the decisions of the local church Board shall be done by majority of votes". S. 1 of the said Bye Law No.4 of the United Pentecostal Church of North East India viz. 'Local Bye Laws' elucidated that the member of the Local Church Board shall be (a) Chairman (b) Secretary (c) Treasurer (d) Deacons (e) Nominated members and (f) Licensed members. The conduct rules of the Church is also embodied under S. 7 of the said Chapter. Wherein, the Church is responsible to decide all forms of problems arose in between the church members and if could not reform or confess the sin of the members, the Holy verses of Mathew 18:15-17 will be applicable for them, it speaks that-

"Moreover if thy brother shall trespass against thee, go and tell him his fault between thee and him alone: if he shall hear thee, thou hast gained thy brother.

But if he will not hear thee, then take with thee one or two more, that in the mouth of two or three witnesses every word may be established.

And if he shall neglect to hear them, tell it unto the church: but if he neglect to hear the church, let him be unto thee as a heathen man and a publican."

As argued by Mr. W. Sam Joseph, Hon'ble Court of Addl. District Magistrate (Judicial), Lunglei District in Title Suit No. 1 of 2001 adjudicated the disputes on the Thingfal UPC Church and also adjudicated similar case on Mualthum 'N' Local Church in Title Suit No. 3 of 1996 on 7th April, 2006 and 21st Jan., 2000 respectively. Wherein, Hon'ble ADM (J) applied the Bye Laws of the UPC of North East India for the purpose of determination of rights and titles on the disputed church properties. In the said cases, the findings of the court of ADM (J), Lunglei was that the UPC of Mizoram delinked themselves from the UPC of North East India on appreciating evidences adduced in the said cases. Needless to say is that the Hon'ble Court of ADM (J) Lunglei in the aforesaid two cases handled and adjudicated as Civil Original Jurisdiction, the ratio is not therefore binding in the same court like this court. In the instant case, submissions and evidences revealed that the UPC of Mizoram did not delink themselves from the UPC of North East India as per the findings under issue No. 7. It may be relevant to look the observations in **Md. Yunus vs The Inspector General Of Registration** decided on 24 August, 1979 and reported in AIR 1980 Pat 138, Hon'ble Patna High Court after examining the ratio laid down in *Anjuman Islamia of Muttra v. Nasir-Ud-Din* [(1906) ILR- 28 All 384] has held that-

"11. In the result, this application is allowed, the registration of the society under Section 3 of the Societies Registration Act is quashed. It is, however, made clear that our decision does not affect the rights of the parties, if any, in respect of the disputed properties."

Again in **Iqra Masjid Welfare Society And Ors. vs Managing Committee Of Iqra Mosque** decided on 27 February, 2004 reported in 2004 (52) BLJR 636, 2004 (2) JCR 390 Jhr, Hon'ble Jharkhand High Court has left the disputed properties of religious societies to be settled in the civil suit capacity in the following terms -

“11. Pending these appeals, in our view, that the property was in media as it were in view of the findings rendered by the Single Judge, we had appointed the Committee of the Society registered under the Societies Registration Act as the receiver of the property in question including the mosque. Now that we have upheld the right of the Society to be in management, subject to the result of any suit that may be filed in that behalf, it is necessary to direct that the receivership of the Society Committee will stand terminated and the Society Committee will assume possession and management of the properties in its own right, keeping true and proper accounts and discharging its obligations under the Societies Registration Act, 1860. The Society and its Managing Committee would be entitled to secure the premises of the shops and the mosque from interference by members of the Wakf Committee and their followers and to administer the properties and the mosque in accordance with law. The Society Committee will also be entitled to be in control of all the affairs of the mosque.”

Thus, in view of the objects of the said Societies Registration Act, 1860 (Act No. 21 of 1860) and its entity followed by the aforesaid judicial decisions, solely because of having registration under the said Act, the defendant would not have a right over to the disputed properties. As discussed above and under issue no. 7, in the instant case, I could not followed the ratio of the decisions of Hon'ble Court of Addl. District Magistrate (Judicial), Lunglei District in Title Suit No. 1 of 2001 adjudicated the disputes on the Thingfal UPC Church and also adjudicated similar case on Mualthuum 'N' Local Church in Title Suit No. 3 of 1996 on 7th April, 2006 and 21st Jan., 2000 respectively as I am impelled to look justice through justice, good conscience and equity as evidence and the Bye Laws itself speaks that the local church properties were procured/acquired from the contributions of all members in the society/organizations. In otherwords, the instant incident is mass broke out of the UPC rules and regulations/bye laws beyond the entity of Obligations imposed under S. 5, Chapter- 1 of the Local Bye Laws as Bye Law No. 4 of the UPC North East India where the church authority in the society of UPC of North East India also fails to perform their duty assigned to them by their Bye Laws to settle all disputes amongst the members which invite the interference of the court.

In this sphere, one simple example may be taken that during 1966, when the then MNF insurgent group fought independence from India, if they succeed to fight out of independence, they will be beyond the edifice of the Constitution of India. Luckily or unluckily, they fails to fight out, the so called 'Peace Accord' was thereby signed within the framework of the holy Constitution of India. In the instant case, the matter requires to look beyond the Bye Laws of the UPC of North East India as the present UPC of Mizoram is not remain governed by the said Bye Laws of the UPC of North

East India. As the present members of the UPC of Mizoram (as deposed by various PWs) were also contributed for the acquisition of the disputed properties, if I ignore their strenuous effort by having contribution at their own level best since inception for the disputed properties, in my opinion, this court will fail to see the well settled legal maxim viz. '*Ubi Jus Ibi Remedium*' which is also recognized by the Hon'ble Supreme Court in **Fertilizer Corporation Kamgar Union (Regd.), Sindri & Ors. vs Union Of India And Others** decided on 13 November, 1980 and reported in 1981 AIR 344, 1981 SCR (2) 52.

Issue No. 10

Whether the suit properties are belonging to the plaintiffs or to the Defendants. If so, on what basis.

Before going through the discussions on the findings, it may be necessary to look into the exact relief sought for-

- (a) For a decree in favour of the Plaintiffs and against the defendants No. 1 & 2.
- (b) For a decree declaring that the Plaintiffs are the rightful owners of the suit properties in accordance with the Passes/LSCs issued to them by the defendant No. 3.
- (c) For a decree directing or restraining the defendants No.1 & 2 and their agents to refrain from interfering with the management, custody and possession of the suit properties, and allowing the plaintiffs to have a peaceful and undisturbed possession management of the same, and
- (d) For any other relief (s) as this court may deem fit and proper.

To epitomize, whether the disputed properties as submitted in the plaint viz. **(i)** Landed property under LSC No. Azl. 1315 of 1989 situated at ITI Veng, Aizawl issued in the name of UPC, ITI Veng and the UPC church building located therein with other furniture **(ii)** Landed property under Land Lease No. DLP Misc. 12 of 1993 situated at College Veng, Aizawl issued in the name of UPC of Mizoram, Chairman, Local Church Board, College Veng as corrected vide No. R. 11042/439/94- DTE (REV)/13 Dt. 31.7.1995 (Previously issued in the name of UPC, Kohhran Committee, College Veng) leased for a period of 25 years from Aug/93 to July/2018 and the UPC Church building located therein with other furniture **(iii)** Landed property under Misc Pass No. 23 of 1974 situated at Armed Veng issued in the name of A.P. Veng UPC **(iv)** Landed property under Misc 16 of 1995 situated at Ramhlun Vengthar, Aizawl issued in the name of Chairman, United Penticostal Church leased for a period of 25 years from 20.4.1995 to 19.4.2010 and the church building located therein and other furniture **(v)** Landed property under LSC No. Azl. 6/86 situated at Zemabawk North issued in the name of Sangliana S/o Gama (L), Zembawk will be under the ownership of the plaintiffs or the defendants 1&2 is the concise crux in the instant case.

Pertinently, the plaintiffs through their evidence alleged that as per the Bye Laws of the UPC of North East India, all the properties belonging to the UPC of North East India will be put in the name of the General Superintendent of the UPC of North East India. But, under clause (6) of section 1 of Chapter- 7 (Power and Functions of the Officers) in their General Bye Laws as Bye Law No. 1, it merely stipulated that all church properties shall be in the custody of the General Superintendent supported by the objects which the society established as per paragraph no. 3 (a) of the Memorandum of Association of the United Pentecostal Church of North East India.

As per the findings under issues no. 7, 8 and 9, none of the parties could claim the disputed properties as original owner as a matter of legal rights as they jointly have had involvement for acquisition of the disputed properties by having contribution for the same and split into two without any cogent and valid agreement by leaving the uphill and cumbersome task to adjudicate in this court.

With regards to the landed property under LSC No. Azl. 1315 of 1989 situated at ITI Veng, Aizawl which was issued in the name of UPC, ITI Veng and the UPC church building located therein with other furniture, as admitted by PWs themselves, they were also administered by the UPC of North East India before split into two. The plaintiff no. 2 with his fellow beings worshipping in the Hmeithei Association House after closing the suit church as deposed by his PWs. Meanwhile, DW- 4 also deposed that the defendants 1 & 2 also contributed Rs. 19,000/- for the establishment of the suit church building.

With regards to the landed property under Land Lease No. DLP Misc. 12 of 1993 situated at College Veng, Aizawl which was issued in the name of UPC of Mizoram, Chairman, Local Church Board, College Veng as corrected vide No. R. 11042/439/94- DTE (REV)/13 Dt. 31.7.1995 (Previously issued in the name of UPC, Kohhran Committee, College Veng) leased for a period of 25 years from Aug/93 to July/2018 and the UPC Church building located therein with other furniture, the DW- 5 admitted that the members who chosen to remain the North Mizoram District was larger than who want to join Aizawl East District. He further deposed that changing the holder of the Land Lease was illegal which is supported by depositions of DW-1. Deposition of PWs of plaintiff no. 3 clearly deposed that the church was in disputed and closed by the law enforcers on 22nd May, 1994 but changed the name of the disputed Land Lease holder on Dt. 31.7.1995 is questionable and challengeable which requires to look even in this proceedings.

With regards to landed property under Misc Pass No. 23 of 1974 situated at Armed Veng issued in the name of A.P. Veng, UPC. As deposed by PWs of plaintiff no. 4, the landed documents are in the custody of the plaintiff no. 4, the plaintiff no. 4 in his deposition as PW-2 of plaintiff no. 4 reveals that only because of his strenuous and persistent effort, the land was allotted to them but he also admitted that before split into UPC of

Mizoram and UPC of North East India in Mizoram, the UPC of North East India administered them in the administration and religious affairs.

With regards to Landed property under Misc 16 of 1995 situated at Ramhlun Vengthar, Aizawl which was issued in the name of Chairman, United Pentecostal Church leased for a period of 25 years from 20.4.1995 to 19.4.2010 and the church building located therein and other furniture, although PWs of plaintiff no. 6 deposed that the name of the holder is Chairman, UPC of Mizoram, Ramhlun Vengthar, but in the annexed Misc Pass in the plaint, no authentication of the alleged change of name is found, on the facet of the Misc 16 of 1995, although a ball point pen supplementation "of Mizoram" is found but the document is not compared with original in the proceedings. More so, there is no official seal and correction order/no in the said alleged change of name of the holder on that facet. I therefore cannot rely/acted on its alleged change of name of the holder of the disputed pass. Evidences of parties elicited that it was closed by the law enforcer on 23/5/1994. The DW- 3 deposed that the defendants 1&2 also contributed Rs. 10,637/- for the establishment of the said disputed church.

With regards to landed property under LSC No. Azl. 6/86 situated at Zemabawk North which was issued in the name of Sangliana S/o Gama (L), Zembawk. DW- 1 and 2 deposed that purchasing of land was also made under the leadership and administration of the UPC of North East India, the name of holder in the said LSC is alleged as illegal by the defendants. Depositions of PWs of plaintiff no. 7 also admitted that although the name of the holder of LSC No. Azl. 6/86 is put as Sangliana S/o Gama (L), Zembawk, the land is belonging to UPC, Local Church, Zemabawk, only because of borrowing the money of the said Mr. Sangliana, his name remains as the holder of the said LSC.

For summing up of all evidences on various disputed properties, all were acquired when joined their hands under the aegis of the UPC of North East India as they emerged in 1969 into one and vested in the name of UPC of North East India but again split into two having equal rights of both parties on the basis of their respective contribution on the suit properties on the basis of factors like (i) numbers of members at the time of split (ii) value of the suit properties (iii) contribution of members/parties for acquisition of the suit properties.

Issue No. 11

Whether the plaintiffs are entitled to the reliefs claimed. If so to what extend.

As already findings under issue no. 10, the plaintiffs must have entitle some relief but not totally following their prayer of relief in the plaint. As per the findings under issue no. 9, only justice, equity and good conscience will be the guiding principles for determining entitlement on the disputed properties. In my view, factors like (i) **numbers of members at the time of split** (ii) **value of the suit properties** (iii) **contribution of members/parties for acquisition of the suit properties**. Meanwhile, the

plaint and subsequent evidence till arguments is not much helpful for the same except deposition of Witnesses of plaintiff no. 7 whereas their respondent fails to counter their depositions to elicit the truth. I must take reliance barely on preponderance of probabilities as recognised in civil proceedings by the Hon'ble Supreme Court in **Cholan Roadways Limited Vs. G. Thirugnanasambandam** reported in 2004 (10) SCALE 578 and by taking the ratio laid down by the Hon'ble Allahabad High Court in the famous Ayodhya case decided on 30-09-2010 in Other Original Suit (OOS) No. 1 of 1989 Shri Gopal Singh Visharad Vs. Zahur Ahmad and 8 others, OOS No. 3 of 1989 Nirmohi Akhara etc. Vs. Baboo Priya Dutt Ram and others, OOS No. 4 of 1989 Sunni central Board of Waqfs U.P. Lucknow and others Vs. Gopal Singh Visharad and others and O.O.S. No. 5 of 1989 Bhagwan Sri Ram Virajman at Ayodhya and others Vs. Rajendra Singh and others that-

“Accordingly, all the three sets of parties, i.e. Muslims, Hindus and Nirmohi Akhara are declared joint title holders of the property/ premises in dispute as described by letters A B C D E F in the map Plan-I prepared by Sri Shiv Shanker Lal, Pleader/ Commissioner appointed by Court in Suit No.1 to the extent of one third share each for using and managing the same for worshipping.

A preliminary decree to this effect is passed.

However, it is further declared that the portion below the central dome where at present the idol is kept in makeshift temple will be allotted to Hindus in final decree.

It is further directed that Nirmohi Akhara will be allotted share including that part which is shown by the words Ram Chabutra and Sita Rasoi in the said map.

It is further clarified that even though all the three parties are declared to have one third share each, however if while allotting exact portions some minor adjustment in the share is to be made then the same will be made and the adversely affected party may be compensated by allotting some portion of the adjoining land which has been acquired by the Central Government.”

As the instant dispute is within the family problems of one denomination due to filigreeing from the teachings and principles of Holy Bible, instead of not only dealt the case on the technicalities of law points, justice may be met by dealing the heckle on understanding the ethos and futuristic zeal of disputed parties like in the said famous Ayodhya case and as observed by the Hon'ble Apex Court in the case of **M.S. Grewal v. Deep Chand Sood** reported in (2001) 8 SCC 151 rather than mere technicalities towards justice within the umbrella of nature tailored embroidered laws. In the said points for determination of entitlement and it's extent viz. (i) **numbers of members at the time of split** (ii) **value of the suit properties**

(iii) **contribution of members/parties for acquisition of the suit properties.** There can be no record and documents to reveal the number of members of parties at the time of split and no accurate submissions on value of the suit properties is also found, contributions of individual members or parties for acquisition of the suit properties can not be ascertained with a simple cogent reason that donation collected by the church is voluntary in nature depends on the will and capacity of the individual members, the number of the members of the church could not also determined the quantum of contribution for acquisition of the suit properties. However, due to lack of any other statistics and documents, reliance may be taken from the recent Statistical Handbook, Mizoram- 2010 published by the Directorate of Economics and Statistics, Govt. Of Mizoram which contemplated that during 2009-2010, the Local Church of UPC of North East was 464 and the total members was 90,370 whereas, at the same period, the Local Church of UPC of Mizoram was 370 and the total member was 43,890. Meanwhile, the UPC of North East employed 188 permanent workers and 50 numbers of temporary workers with sponsoring missionaries of 123. The UPC of Mizoram employed 83 permanent workers and 24 numbers of temporary workers with sponsoring missionaries of 79. Presumption can therefore be made that the UPC of North East India will be morethan the other UPC of Mizoram even at the time of split into two. The entitlement/deed may also variant in accordance with the strength of members as the disputed properties were acquired from the contribution of members of the parties.

ORDER

May be because of the stringent religious doctrine also embodied under clause (2) of Section 1 read with section 6 under Chapter- 3 (Marriage and Divorce) of Bye Law No. 1 (General Bye Law) and since 1950 till split into two in 1995, both the plaintiffs and the defendant as worked together under the same doctrine and Bye Laws, I must presumed that all the members of the plaintiffs and the defendant are close relatives as preclude to marriage other faith in denominations and religions. This order may also be easily digested by parties with a simple reason that they are expecting that they must wish their opponent's benefits and interest rather than their own cause. Needless to say is that their doctrine, beliefs, tenet, religious practices and faith remains similar in nature and further expected by this court to see a day when they re-merged and work together solely for the greatness and holiness of Almighty. The main reasons for decisions reach by this court in the following terms in this case is also only because of such yearning to join their hands together under the same leadership whatever their names may be, which is the very best wishes and desire of this court and which could make them both parties in repute, credible, reliable and vigorous for receiving the blessings of Almighty to eschew on personal egos, pride and vested interest as enlightened by the Holy Bible. IF THEY (THE PLAINTIFFS AND THE DEFENDANT) FAILS -

UPON the findings in the various issues as discussed above, it is hereby ORDERED and DECREED that –

The plaintiff no. 3 is declared and decreed as the rightful and legal owner of the landed property under Land Lease No. DLP Misc. 12 of 1993 situated at College Veng, Aizawl which was issued in the name of UPC of Mizoram, Chairman, Local Church Board, College Veng as corrected vide No. R. 11042/439/94- DTE (REV)/13 Dt. 31.7.1995 (Previously issued in the name of UPC, Kohhran Committee, College Veng) leased for a period of 25 years from Aug/93 to July/2018 and the UPC Church building located therein with other moveable properties located therein.

The plaintiff no. 4 is declared and decreed as the rightful and legal owner of the landed property under Misc Pass No. 23 of 1974 situated at Armed Veng issued in the name of A.P. Veng, UPC with other moveable properties located therein.

The defendants 1&2 are declared and decreed as the rightful and legal owner of the landed property under LSC No. Azl. 1315 of 1989 situated at ITI Veng, Aizawl which was issued in the name of UPC, ITI Veng and the UPC church building located therein with other moveable properties located therein.

The defendants 1&2 are further declared and decreed as the rightful and legal owner of the Landed property under Misc 16 of 1995 situated at Ramhlun Vengthar, Aizawl which was issued in the name of Chairman, United Penticostal Church leased for a period of 25 years from 20.4.1995 to 19.4.2010 and the church building located therein with other moveable properties located therein.

The defendants 1&2 are also declared and decreed as the rightful and legal owner of the landed property under LSC No. Azl. 6/86 situated at Zemabawk North which was issued in the name of Sangliana S/o Gama (L), Zembawk with other moveable properties located therein.

The concerned parties are directed to hand over the respective documents pertaining to suit properties to the concerned decree holder within 90 (ninety) days or till the appeal period is over. The concerned parties are further directed to approach the Superintendent of Police, Aizawl District for opening of the suit properties and handling over of the said documents by directing them that it shall be done only under the supervision of Superintendent of Police, Aizawl District or any other reliable Police Officer assigned by him in his behalf, the Superintendent of Police, Aizawl District is therefore kindly directed to make necessary security arrangement for opening of the disputed properties towards public peace and tranquility by collecting keys used to put under lock and key of the suit properties from the District Magistrate, Aizawl District for opening of the same or also authorized him/them to break the lock/keys/doors if deems fit and proper for realization of this order.

The District Magistrate, Aizawl District is also kindly directed to see the process for realization of this order for his satisfaction of peace and secure public life and to release the respective keys of the locked/closed church building to the respective decree holders or the Superintendent of

Police, Aizawl District within 90 (ninety) days or till the appeal period is over with a cordial liaison with the Superintendent of Police, Aizawl District.

The proforma defendant viz. Director, Land, Revenue and Settlement Department, Govt. of Mizoram is directed to response and pay sincere efforts on the application if any preferred to him by the decree holders to mutate/modify of their respective landed documents within the ambit of the existing land and revenue laws towards avoiding future enmity in the ownership/possession of the suit properties.

No order as to costs due to peculiarities of the case, the case shall stand disposed of

Give this copy to all concerned including decree.

Given under my hand and seal of this court on this 9th August, 2011 Anno Domini within the premises and during the working hours of this court and is pronounced in an open court.



Dr. H.T.C. LALRINCHHANA

Senior Civil Judge- 2

Aizawl District: Aizawl

Memo No. TS/1/1996, Sr. CJ (A)/

Dated Aizawl, 9th August, 2011

Copy to:

1. Mr. R. Thangpuia, Chairman, Church Board Committee, U.P.C., Bethlehem Vengthlang, Aizawl- Mizoram through Mr. L.H. Lianhrima, Advocate
2. Mr. Nghakliana, Chairman, Church Board Committee, U.P.C., I.T.I., Veng, Aizawl- Mizoram through Mr. L.H. Lianhrima, Advocate
3. Mr. P.C. Laltluanga, Chairman, Church Board Committee, U.P.C., College Veng, Aizawl- Mizoram through Mr. L.H. Lianhrima, Advocate
4. Mr. Lalhmingthanga Sailo, Chairman, Church Board Committee, U.P.C., Armed Veng South, Aizawl- Mizoram through Mr. L.H. Lianhrima, Advocate
5. Mr. Z. Lalzidinga, Chairman, Church Board Committee, U.P.C., Bazar Veng, Aizawl- Mizoram through Mr. L.H. Lianhrima, Advocate
6. Mr. Thanhkira, Chairman, Church Board Committee, U.P.C., Ramhlun Vengthar, Aizawl- Mizoram through Mr. L.H. Lianhrima, Advocate
7. Mr. Sangliana, Chairman, Church Board Committee, U.P.C., Zemabawk North, Aizawl- Mizoram through Mr. L.H. Lianhrima, Advocate
8. The General Superintendent, United Pentecostal Church, North East India, Headquarter at Jingkieng- Shillong, Meghalaya through Mr. W. Sam Joseph, Advocate

9. The District Superintendent, UPC of North East India, Aizawl East District with Headquarters at Zarkawt, Aizawl through Mr. W. Sam Joseph, Advocate
10. The Director, Land Revenue and Settlement Department, Govt. of Mizoram, Mizoram- Aizawl through Mr. R. Lalremruata, AGA
11. P.A. to Hon'ble District & Sessions Judge, Aizawl Judicial District- Aizawl
12. The District Magistrate, Aizawl District: Aizawl
13. The Superintendent of Police, Aizawl District- Aizawl
14. Case record

PESKAR

**IN THE COURT OF SENIOR CIVIL JUDGE- 2
AIZAWL DISTRICT: AIZAWL**

DECREE

TITLE SUIT NO. 01 OF 1996

Plaintiffs:

8. Mr. R. Thangpuia
Chairman
Church Board Committee
U.P.C., Bethlehem Vengthlang
Aizawl- Mizoram
9. Mr. Nghakliana
Chairman
Church Board Committee
U.P.C., I.T.I., Veng
Aizawl- Mizoram
10. Mr. P.C. Laltluanga
Chairman
Church Board Committee
U.P.C., College Veng
Aizawl- Mizoram
11. Mr. Lalhmingthanga Sailo
Chairman
Church Board Committee
U.P.C., Armed Veng South
Aizawl- Mizoram
12. Mr. Z. Lalzidinga
Chairman
Church Board Committee
U.P.C., Bazar Veng
Aizawl- Mizoram
13. Mr. Thanhkira
Chairman
Church Board Committee
U.P.C., Ramhlun Vengthar
Aizawl- Mizoram
14. Mr. Sangliana
Chairman
Church Board Committee

U.P.C., Zemabawk North
Aizawl- Mizoram

By Advocates

: 1. Mr. L.H. Lianhrima
2. Mr. Lalhriatpuia

Versus

Defendants:

3. The General Superintendent
United Penticostal Church, North East India
Headquarter at Jingkieng
Shillong, Meghalaya
4. The District Superintendent
UPC of North East India
Aizawl East District with Headquarters at Zarkawt, Aizawl

By Advocates

: 1. Mr. W. Sam Joseph
2. Mr. F. Lalengliana

Proforma defendant:

The Director
Land Revenue and Settlement Department
Govt. of Mizoram
Mizoram- Aizawl

By Advocates

: 1. Mr. R. Lalremruata, AGA
2. Miss Bobita Lalhmingmawii, AGA

Date of Judgment & Order : 09 -08 -2011

Date of Decree : 09 -08 -2011

BEFORE

Dr. H.T.C. LALRINCHHANA, Sr. CJ- 2

This suit coming on this 9th August, 2011 for final disposal before Dr. H.T.C. Lalrinchhana, Senior Civil Judge - 2 in the presence of Mr. L.H. Lianhrima & Ors., Advocates for the plaintiff and of Mr. W. Sam Joseph & Ors. Advocates for the defendants and Mr. R. Lalremruata & Ors. AGA for the proforma defendant, it is ordered and decreed that it is hereby declared that the plaintiff no. 3 is declared and decreed as the rightful and legal owner of the landed property under Land Lease No. DLP Misc. 12 of 1993 situated at College Veng, Aizawl which was issued in the name of UPC of Mizoram, Chairman, Local Church Board, College Veng as corrected vide No. R. 11042/439/94- DTE (REV)/13 Dt. 31.7.1995 (Previously issued in the name of UPC, Kohhran Committee, College Veng) leased for a period of

25 years from Aug/93 to July/2018 and the UPC Church building located therein with other moveable properties located therein.

The plaintiff no. 4 is declared and decreed as the rightful and legal owner of the landed property under Misc Pass No. 23 of 1974 situated at Armed Veng issued in the name of A.P. Veng, UPC with other moveable properties located therein.

The defendants 1&2 are declared and decreed as the rightful and legal owner of the landed property under LSC No. Azl. 1315 of 1989 situated at ITI Veng, Aizawl which was issued in the name of UPC, ITI Veng and the UPC church building located therein with other moveable properties also located therein.

The defendants 1&2 are further declared and decreed as the rightful and legal owner of the Landed property under Misc 16 of 1995 situated at Ramhlun Vengthar, Aizawl which was issued in the name of Chairman, United Penticostal Church leased for a period of 25 years from 20.4.1995 to 19.4.2010 and the church building located therein with other moveable properties located therein.

The defendants 1&2 are also declared and decreed as the rightful and legal owner of the landed property under LSC No. Azl. 6/86 situated at Zemabawk North which was issued in the name of Sangliana S/o Gama (L), Zembawk with other moveable properties located therein.

The concerned parties are directed to hand over the respective documents pertaining to suit properties to the concerned decree holder within 90 (ninety) days or till the appeal period is over.

Given under my hand and seal of the Court, this 9th day of August, 2011.

Seal of the court



Judge