

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

TITLE SUIT NO. 02 (A) OF 1996

Plaintiffs:

1. Rev. Chhunglawma  
District Superintendent  
N. Mizoram District  
United Penticostal Church
2. Mr. Lalnunmawia  
Chairman, Hqrs.  
Local Church Board Committee  
United Penticostal Church  
Tuikhuahtlang- Aizawl
3. Mr. Chalkunga  
Chairman  
Church Board Committee  
United Penticostal Church  
Chanmari- Aizawl
4. Mr. Laldawngliana  
Chairman  
Church Board Committee  
United Penticostal Church  
Chaltlang- Aizawl

*By Advocates*

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

*Versus*

Defendant's:

The General Superintendent  
United Penticostal Church, North East India  
Headquarter at Jingkieng  
Shillong, Meghalaya

*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 Hearing : 10- 08- 2011

Date of Order : 10 -08 -2011

**BEFORE**

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

**AMENDMENT OF JUDGMENT & DECREE**

**INTRODUCTORY**

The instant belated proceedings witnessed that all human beings are fallible only Almighty is infallible. None can have any security and peaceful yoke except in Almighty through the teachings and holiness of Holy Bible.

Be frank, the suit is filed in the past 15 years when there was no insulation of judiciary from the executives and more darkness in law and its procedures in the terrain, the plaint is lacking the value of the suit properties and the particulars of the suit land like Pastor Quarters merely claiming all Pastor Quarters. Luckily, the PW-1 deposed the various locations of Pastor Quarters but not specified their exactness including the landed Pass/LSC or nature of buildings. Till arguments, no other materials and circumstances to ascertain the same is found and heard. I understand such lacunae as a long time pending case. Meanwhile, sincerely I apologize to all concerned in the said inevitable malady.

**PETITION FOR AMENDMENT**

Whilst intended to deliver salutary and homage judgment and decree, erred in judgment & decree is found, the defendant thereby submitted an application to amend the decree under Ss. 152 read with 151 of the Code of Civil Procedure, 1908 (In short- CPC).

The mistakes committed on the facet of the judgment & decree passed and awarded on 09-08-2011 are as follows-

- (1) There are two buildings of Pastor Quarter buildings located at Tuikhuahtlang (As found only one in the previous proceeding), the northern side building is having three floors and occupied all floors by the UPC of North East India. The southern side of Pastor residential quarter is having four floors (Including one simple Assam Type building in the top floor), the ground floor is occupied by the UPC of North East India, the first floor is occupied by the UPC of Mizoram for performing church service, the third floor is being closed and the top floor is occupied by the Bookseller belonging to the UPC of Mizoram. One step is lies in between the

two. Both the buildings are located under Misc Pass No. 13 of 1970.

(2) The building used to run PG High School is also located under Misc Pass No. 13 of 1970 in the back side of the main local Church of Tuikhuahtlang which is used to conduct Sunday School in the week ends. The same suit properties are decreed in favour of both parties in the said judgment & decree.

(3) The building and land located at Mualpui, Aizawl under Pass No. 8 of 1986 is not being used for Sunday School Hall but for other purposes.

The defendant/petitioner thereby prayed to amend the decree/order towards avoidance of future enmity.

The shortfalls is admitted in toto and called upon other parties meant for timely disposal.

### **HEARING**

Parties in persons and their respective learned counsels were called upon at 2:00 P.M. [10-08-2011] and sought amicable settlement on the crux, since they fails to reach amicable settlement as expected, they left the matter for adjudication by this court.

### **LEGAL ENTITY**

On the plain reading of S. 152 of CPC, judgment, decree and order can be amended on the grounds of clerical or arithmetical mistakes either own the own motion of the court or on the application of any of the parties. Such is not the hindrances of the instant case. But by taking the aegis of S. 151 of the CPC (Inherent Powers of Court), it can be cured. Inherent power of the court simply means that the court is not only court of law but also court of justice as recently observed by their Lordship of Hon'ble Supreme Court in **Padal Venkata Rama Reddy @ Ramu vs Kovvuri Satyanarayana Reddy & Ors.** decided on 29 July, 2011 in connection with Criminal Appeal No. 1499 of 2011 (Arising out of S.L.P. (Crl.) No.929 of 2011). In other sense, it is a well settled law that S. 151 of the CPC can be invoked where the other provisions of CPC silent solely to streak out justice Vide, In **M/s. Ram Chand and Sons Sugar Mills Private Ltd. v. Kanhayalal Bhargava and Others** [AIR 1966 SC 1899]: In **Vareed Jacob Vs. Sosamma Geevarghese & Ors** in connection with Appeal (civil) 2634 of 2004 and decided on 21/04/2004 reported in 2004 AIR 3992, 2004 (1) Suppl. SCR 534, 2004 (6) SCC 378, 2004 (5) SCALE 102, 2004 (2) Suppl. JT 165: In **Manohar Lal Chopra Vs. Rai Bahadur Rao Raja Seth Hiralal** decided on 16/11/1961 reported in 1962 AIR 527, 1962 (1) Suppl. SCR 450: In **Jet Ply Wood Private Ltd. & Anr Vs. Madhukar Nowlakhia & Ors** in connection with Appeal (civil) 1367 of 2006 and decided on 28/02/2006 reported in 2006 AIR 1260, 2006 (2) SCR 761, 2006 (2) SCALE 729, 2006 (3) JT 60 which is recently evident by the observations of Hon'ble Supreme Court in **K.K. Velusamy vs N. Palaanisamy** decided on 30 March, 2011 in connection with Civil Appeal Nos. 2795-2796 of 2011 [Arising out of SLP [C] Nos.18211-18212 of 2010].

Thus, amendment of the instant judgment & decree is permissible within the umbrella of the CPC as discussed above.

### **ORDER**

UPON hearing of both parties and their respective learned counsels and as admitted that there is an urgent necessity of amendment of the judgment & decree as admitted by both parties for timely justice.

The decree/order portion of the judgment & order/decreed dt. 09-08-2011 in connection with the instant case is thereby amended as follows-

1. With regards to Pastor Quarters located at Tuikhuahtlang, Aizawl covered by Misc. Pass No. 13 of 1970, the defendant (UPC of North East India) is declared and decreed as the rightful and legal owner of the Pastor Quarter building located in the northern side which is being occupied by the UPC of North East India including the landed area with sizeable compound having five feet space in the southern side (If possible and as the other side/corner is adjudicated in their favour). WHEREAS, the plaintiff No. 1 who represented the UPC of Mizoram is hereby declared and decreed as the rightful and legal owner of the Pastor Quarter building in the southern side which is having four floors. The step which lies in between the two buildings should be enjoyed by both parties from the main road of Tuikhuahtlang (In the eastern side) including the landed area with at least sizeable compound having five feet space in side of the landed property of the defendant (UPC of North East India) except in the western side adjacent to the Main Office building as the area will not permit the same. The demarcation in the western side shall be done as the elaka permits it and by leaving in the decisions of the proforma defendant.
2. With regards to the building and land previously used for running P.G. High School (Which is also located within the area of Misc Pass No. 13 of 1970), taking the ratio find out under issue No. 11 in the main judgment, the defendant (UPC of North East India) is declared and decreed as the rightful and legal owner of the suit building and land including all moveable properties located therein.
3. With regards to the building and land located at Mualpui, Aizawl, correction is made that the word 'Sunday School building' will be replaced by the word 'building and land' appeared in the facet of paragraph 4 at page no. 47 of the main judgment and at paragraph 3 in the decree.
4. The land occupied by the Pastor Quarter of UPC located at Tuikhuahtlang under Misc Pass No. 13 of 1970 in the southern side (Amongst two Pastor Quarter buildings) decreed in favour of the plaintiff no. 1 (UPC of Mizoram) shall be sliced out/partitioned from the area of Misc Pass No. 13 of 1970 as decreed above, the proforma defendant is authorized to admeasure the area for the convenience of both parties for making partition in view of the area specified in the above decree no. 1. The said proforma defendant is therefore directed to perform this task in time toward avoidance of future rivalry amongst the parties.

The concerned parties are again directed to hand over the respective documents pertaining to suit properties to the concerned decree holders and also vacate the same (if necessary) for peaceful possession of the concerned decree holders within 90 (ninety) days or till the appeal period is over. The concerned parties are further directed to approach the concerned Superintendent of Police 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 the concerned Superintendent of Police or any other reliable Police Officer assigned by him in his behalf, the concerned Superintendent of Police are 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 concerned for opening of the same or authorized him/them to break the lock/keys/doors if deem fit and proper in pursuance 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 buildings to the respective decree holders or the concerned District Superintendent of Police within 90 (ninety) days or till the appeal period is over with a cordial liaison with the concerned District Superintendent of Police.

Give this copy to all concerned including decree.

With this order, the amendment petition shall stand disposed of.

Given under my hand and seal of this court on this 10<sup>th</sup> 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/2A/1996, Sr. CJ (A)/

Dated Aizawl, the 10<sup>th</sup> August, 2011

Copy to:

1. Rev. Chhunlawma, District Superintendent, N. Mizoram District-United Penticostal Church through Mr. L.H. Lianhrima, Advocate
2. Mr. Lalnunmawia, Chairman, Hqrs., Local Church Board Committee, United Penticostal Church, Tuikhuahtlang- Aizawl through Mr. L.H. Lianhrima, Advocate

3. Mr. Chalkunga, Chairman, Church Board Committee, United Penticostal Church, Chanmari- Aizawl through Mr. L.H. Lianhrima, Advocate
4. Mr. Laldawngliana, Chairman, Church Board Committee, United Penticostal Church, Chaltlang- Aizawl through Mr. L.H. Lianhrima, Advocate
5. The General Superintendent, United Penticostal Church, North East India, Headquarter at Jingkieng- Shillong, Meghalaya through Mr. W. Sam Joseph, Advocate
6. The Director, Land Revenue and Settlement Department, Govt. of Mizoram, Mizoram- Aizawl through Mr. R. Lalremruata, AGA
7. P.A. to Hon'ble District & Sessions Judge, Aizawl Judicial District- Aizawl
8. The District Magistrate, Aizawl District: Aizawl
9. The Superintendent of Police, Aizawl District- Aizawl
10. Case record

PESKAR