

**IN THE COURT OF SENIOR CIVIL JUDGE- 1
AIZAWL DISTRICT: AIZAWL, MIZORAM**

MONEY SUIT NO. 51 OF 2010

Plaintiffs:

1. Lalchhuanawma
S/o Sapmawia
Bilkhawthlir-1
2. Biaksanga
S/o Dova
Saron Veng, Bilkhawthlir
3. Lalthanghliri
D/o T.N.Kama
Tuitha Veng, Bilkhawthlir
4. Vanlalrema
S/o Thanghlenlova
Vengchep, Bilkhawthlir
5. Liandawli
D/o Lalhmingthanga
Veng chep, Bilkhawthlir
6. Lalthankima
S/o Kaplana
Kawn Veng, Bilkhawthlir
7. Zairema
S/o Chalphunga
Kawn Veng, Bilkhawthlir
8. L.Dama
S/o T.K.Kama
Bilkhawthlir
9. Ngenzuala
S/o Leta
Vengchep, Bilkhawthlir
10. Lalchhuanvawra
S/o Papua
Bilkhawthlir
11. Zoramthangi
D/o Khawchhana
Tuitha Veng, Bilkhawthlir

12. R.Vanlalkunga
S/o Hrangkunga
Vengchep, Bilkhawthlir

13. Rallawma
S/o Kutvunga
Vengchep, Bilkhawthlir

14. Zaithangvunga
S/o Thangkhuma

15. K.Vanlalkima
S/o K.Thanghrima
Saron Veng, Bilkhawthlir

16. H. Lalrammawia
S/o Sangkunga
Tuitha Veng, Bilkhawthlir

17. C. Sangkunga
S/o Biaksanga
Tuitha Veng, Bilkhawthlir

18. R.S.Lianthuama
S/o Lalhminglana
Saron Veng, Bilkhawthlir

19. Vanlahluna
S/o Thanghleia
Kualmawi, Bilkhawthlir

20. Vanlalsangi
W/o Lalthakima
Bilkhawthlir

21. Vanlalnghaka
S/o C. Chhawna
Saron Veng, Bilkhawthlir

22. Thanzinga
S/o Lalkiamlova
Field Veng, Bilkhawthlir

23. K. Lalhmachhuana
S/o K.Thanghrima (L)
Saron Veng, Bilkhawthlir

24. Lalchungnunga
S/o Padenga (L)
Bilkhawthlir (III)

25. Thanmawia
S/o Lalkhama
Tuitha Veng, Bilkhawthlir

26. H. Lalringa
S/o Sailova
Bilkhawthlir

27. R. Vanlalliana
S/o R.Zaliana
Bilkhawthlir-III

28. F. Vanlalmawia
S/o Rozama
Bilkhawthlir

29. Lalrinenga
S/o H.Rangthanga

30. Laltinseia
S/o Hranga

31. H. Lalthlamuana
S/o Rangthanga
Bilkhawthlir-IV

32. Lalsawma
S/o Zathangpuia
Bilkhawthlir-III

33. Lalthanzauva
S/o Nikhuma
Bilkhawthlir-I

34. Saitawna

35. V.L. Hlira
S/o China
Bilkhawthlir

36. Biakchungnunga
S/o L.T. Zauva
Bilkhawthlir-IV

37. Thanliana
S/o Biakliana
Bilkhawthlir-II

38. K. Vanlalkima
S/o K. Thanghrima

Bilkhawhtlir

39. Zoliana
S/o Engbuanga
Bilkhawthlir-II

40. V.L. Hlira
S/o China
Bilkhawhtlir-II

41. K. Zoramthanga
S/o K. Vanlalenga

42. Laltanpuia Sailo
S/o S.L. Mangkhuma

43. S.L. Mangkhuma
S/o Kamliana

44. F.L. Siamliana
S/o S.L. Mangkhuma

45. Lalsaienga
S/o S.L. Mangkhuma

46. RVL. Dingliana
Buhchang

47. P.C. Vanlalnghaka
S/o Biakthanga

48. R. Lalhmunmawia
S/o Lalthanzauva

By Advocates

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

Versus

Defendants:

1. The Secretary to the Govt. of Mizoram
Public Works Department
Mizoram- Aizawl
2. The Engineer in Chief
Public Works Department
Govt. of Mizoram
3. The Chief Engineer
Public Works Department (NH)

Govt. of Mizoram

4. Executive Engineer
Public Works Department
Kolasib Division, Kolasib

5. Sub-Divisional Officer
Public Works Department
Bilkhawthlir Sub-Division

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

Date of Arguments : 07-12-2011

Date of Judgment & Order : 08-12-2011

BEFORE

Dr. H.T.C. LALRINCHHANA, Sr. CJ- 1

JUDGMENT & ORDER

NUCLEUS OF THE CASE

The plaintiffs in their plaint submitted that the plaintiffs are all permanent residents of Mizoram at Bilkhawthlir village and belonging to the Mizo Community which is recognized as Scheduled Tribe and as such they are entitled to all the rights and privileges conferred by the Constitution of India and any other laws for the time being in force in India. The plaintiffs are the land owners located at Bilkhawthlir, Mizoram and they earn their livelihood from their landed properties located at Bilkhawthlir. In fact, they have been developing and maintaining their said land by planting various crops, several fruit bearing trees etc therein right from the year of allotment upto and they have been in peaceful possession and occupation of their said lands without any break till the said lands are acquired by the defendants. That in the year 2006-2007, the improvement of NH-154 for construction of pavement from KM 6/00 to 12/00 (total 6 KM) in Mizoram was done by Public Works Department, Government of Mizoram as per Job No.154-Mz-2003-04-028 Vide letter No. NH-12045/CE-II/(PWD)/01/77 dt.25.3.2003 from C.E. PWD (Zone-II) Mizoram. During the works was done, the plaintiffs plantations, crops and structures have been damaged by the defendants Government. An assessment was also prepared by SDO, PWD, Bilkhawthlir Sub-Division in respect of the plaintiffs plantations, crops and structures which has been damaged by the said road construction. The following are the list of names along with the amount assessed for compensation in respect of plantations, crops and structures which are damaged by the defendants as per assessment made by SDO,PWD, Bilkhawthlir Sub-Division:-

1. Lalchhuanawma S/o Sapmawia, Bilkhawthlir-1 (Rs. 6981)
2. Biaksanga S/o Dova, Saron Veng, Bilkhawthlir. (Rs.370)

3. Lalthanghliri D/o T.N. Kama, Tuitha Veng, Bilkhawthlir. (Rs. 95435)
4. Vanlalrema S/o Thanghlenlova, Vengchep, Bilkhawthlir. (Rs.863)
5. Liandawli D/o Lalhmingthanga, Veng chep, Bilkhawthlir. (Rs.6619)
6. Lalthankima S/o Kapliana, Kawn Veng, Bilkhawthlir. (Rs.2600)
7. Zairema S/o Chalphunga, Kawn Veng, Bilkhawthlir. (Rs.118545)
8. L. Dama S/o T.K. Kama, Bilkhawthlir. (Rs.63120)
9. Ngenzuala S/o Leta, Vengchep, Bilkhawthlir. (Rs. 2500)
10. Lalchhuanvawra S/o Papuia, Bilkhawthlir. (Rs.135000)
11. Zoramthangi D/o Khawchhana, Tuitha Veng, Bilkhawthlir. (Rs.5700)
12. R. Vanlalkunga S/o Hrangkunga, Vengchep, Bilkhawthlir. (Rs.40105)
13. Rallawma S/o Kutvunga, Vengchep, Bilkhawthlir. (Rs.4100)
14. Zaithangvunga S/o Thangkhuma. (Rs.2062)
15. K. Vanlalkima S/o K. Thanghrima, Saron Veng, Bilkhawthlir. (Rs.2915)
16. H. Lalrammawia S/o Sangkunga, Tuitha Veng, Bilkhawthlir. (Rs.4030)
17. C. Sangkunga S/o Biaksanga, Tuitha Veng, Bilkhawthlir. (Rs.2150)
18. R.S. Lianthuama S/o Lalhmingliana, saron Veng, Bilkhawthlir. (Rs.22535)
19. Vanlalhluna S/o Thanghleia, Kualmawi, Bilkhawthlir. (Rs.20600)
20. Vanlalsangi W/o Lalthakima, Bilkhawthlir. (Rs.1500)
21. Vanlalnghaka S/o C.Chhawna, Saron Veng, Bilkhawthlir. (Rs.87769)
22. Thanzinga S/o Lalkiamlova, Field Veng, Bilkhawthlir. (Rs. 3200)
23. K. Lahmachhuana S/o K.Thanghrima(L), Saron Veng, Bilkhawthlir. (Rs. 1,600)
24. Lalchungnunga S/o Padenga(L), Bilkhawthlir(III). (Rs.50,200)
25. Thanmawia S/o Lalkhama, Tuitha Veng, Bilkhawthlir. (Rs. 37,470)
26. H. Lalringa S/o Sailova, Bilkhawthlir.(Rs.7690)
27. R. Vanlalliana S/o R.Zaliana, Bilkhawthlir-III. (Rs.960)
28. F. Vanlalmawia S/o Rozama, Bilkhawthlir. (Rs.5,500)
29. Lalrinenga S/o H.Rangthanga. (Rs.2500)
30. Laltinseia S/o Hrang. (Rs.17746)
31. H. Lalthlamuana S/o Rangthanga, Bilkhawthlir-IV. (Rs.3350)
32. Lalsawma S/o Zathangpuia, Bilkhawthlir-III. (Rs.2900)
33. Lalthanzauva S/o Nikhuma, Bilkhawthlir-I. (Rs.2375)
34. Saitawna. (Rs.5900)
35. V.L. Hlira S/o China, Bilkhawthlir (2.KM)(Rs.2100)
36. Biakchungnunga S/o L.T.Zauva, Bilkhawthlir-IV. (Rs.2700)
37. Thanliana S/o Biakliana, Biakliana, Bilkhawthlir-II. (Rs.2800)
38. K. Vanlalkima S/o K.Thanghrima, Bilkhawthlir. (Rs.1000)
39. Zoliana S/o Engbuanga, Bilkhawthlir-II. (Rs.1200)
40. V.L. Hlira S/o China, Bilkhawthlir-II (3KM)(Rs.1100)
41. K. Zoramthanga S/o K.Vanlalenga. (Rs.2500)
42. Laltanpuia Sailo S/o S.L.Mangkhuma. (Rs.10,000)
43. S.L. Mangkhuma S/o Kamliana. (Rs.10000)
44. F.L. Siamliana S/o S.L. Mangkhuma. (Rs.12600)
45. Lalsaienga S/o S.L. Mangkhuma. (Rs.32655)
46. RVL. Dingliana, Buhchang. (Rs.62066)
47. P.C. Vanlalnghaka S/o Biakthanga (Rs.3950)
48. R. Lahmunmawia S/o Lalthanzauva (Rs.399)

The plaintiff further submitted that it is crystal clear that the defendants Government has to give compensation to the plaintiffs amounting to Rs. 9,19,688/- due to damaged of plantation, crops and structures of the plaintiffs. Out of the estimate submitted by PWD, Government of Mizoram (Rs. 801.40 lakhs) the M/S of RT&H has sanctioned Rs.672 lakhs. And in the said Technical Note of Ministry of Road Transport & Highways vide No. NH/12014/24/2003/Mizoram/NH-10 Dated the 21st July, 2003 comments 2.10 clearly stated that State PWD may meet out this 12 lakhs for compensation of plantation likely to be damaged from the contingency of the estimate provided separately. The plaintiffs repeatedly appealed and also asked the defendants to make payment of compensation of the said damaged but yielded no fruitful result. Having no other alternative, the plaintiffs through their Counsel served a legal notice under section 80 CPC on 14-12-2009. However, till date no positive action has been taken by the defendants towards redress of their grievances till date. That the cause of action arose in the year 2003 and it continues to arise till date. That the cause of action arose at Bilkhawthlir village which is within the territorial jurisdiction of this court. The required court fee of Rs. 5000/- is deposited along with the plaint in terms of the provisions of the Court Fees Mizoram (Amendment) Act, 1995. The Plaintiffs therefore claims the following reliefs- (i) To make immediate payment of compensation amounting to Rs. 919,688/- (Rupees nine lakhs nineteen thousand six hundred eighty eight) only along with interest @ 9% per annum from the date of damaged of plantations, crops and structures of plaintiff till realization of the said Compensation. (ii) To make immediate payment of Rs. 2,00,000/- as loss of income for deprivation of their right to use their land and Rs. 1,00,000/- for mental suffering, agony etc. (iii) Any other decree or decrees or order or orders as this court may deem for and proper for the ends of justice.

The defendants in their written statements stated that the instant construction work is belonging to the Ministry of Road Transport and Highways, Govt. of India and the Govt. of India is the sanctioning authority. As a nodal department/agency, the PWD as defendants is only executed the said work including supervision of the work. Assessment conducted by the defendants did not meant that the defendants are liable to pay compensation in the instant case as they are not the sanctioning authority. More so, as turn down the estimate amounts at Rs. 801.40 lakhs including lumpsum provision of Rs. 12.00 lakhs, only Rs. 672.00 lakhs were accorded by deleting the lumpsum provision of Rs. 12.00 lakhs by the Ministry of Road Transport and Highways, Govt. of India. After all, although clarification is replied to the Regional Officer on 1st August, 2007, the matter lies pending in the office of the said Regional Officer. It appears that the compensation could have been paid if the said Regional Officer agrees with the direction in the technical note.

ISSUES

The issues were framed on 17/1/2011 which were as under-

1. Whether the plaint is maintainable in its present form and style

2. Whether the suit is bad for mis-joinder and non-joinder of necessary parties
3. Whether the plaintiffs are entitled to the relief claimed or not. If so to what extend.

BRIEF ACCOUNT OF EVIDENCE

For the plaintiff:

The plaintiff had produced two witnesses namely-

- (1) Mr. C. Saikunga S/o Biaksanga, Tuitha Veng, Bilkhawthlir (Hereinafter referred to him as PW- 1)
- (2) Mr. L. Dama S/o T.K. Kama, Bilkhawthlir (Hereinafter referred to him as PW- 2)
- (3) Mrs. Lalnunmawii D/o Chhuanvawra, Bilkhawthlir (Hereinafter referred to her as PW- 3)
- (4) Mr. Chhuanvawra S/o Papua (L) (Hereinafter referred to him as PW- 4)
- (5) Mr. Zairema S/o Chalphunga (L) Bilkhawthlir (Hereinafter referred to him as PW- 5)

The **PW-1** in his examination in chief reiterated the submissions and averments made in the plaint by claiming compensation amount on the basis of the assessment made by the SDO, PWD, Bilkhawthlir with the total amount of Rs. 9,19,688/- due to damaged of plantation, crops and structures of the plaintiffs. Out of the estimate submitted by the defendants to the Ministry of Road Transport and Highways, Govt. of India at Rs. 801.40 lakhs, the Ministry of Road Transport and Highways, Govt. of India had sanctioned Rs. 672 lakhs. In the technical note dt. 21st July, 2003 comment no. 2.10 clearly elicited that the defendants may meet out this 12 lakhs for compensation of plantation likely to be damaged from the contingency of the estimate provided separately.

But the PW-1 was not cross examined

The **PW- 2** in his examination in chief reiterated the gist of submissions and averments made in the plaint being the plaintiff no. 8 by claiming compensation amount on the basis of the assessment made by the SDO, PWD, Bilkhawthlir with the total amount of Rs. 9,19,688/- due to damaged of plantation, crops and structures of the plaintiffs. He further deposed that-

Ext. P-1 is plaint

Ext. P-1 (a) is his signature

Ext. P-2 is a copy of letter of Ministry of Road Transport and Highways, Govt. of India dt. 21/7/2003

Ext. P-3 is a copy of sub-estimate for construction of pavement from 6/00-12/00 of NH-154 in Mizoram

Ext. P-4 is a copy of detail compensation statements

Ext. P-5 is a copy of legal notice dt. 14/12/2009

In his cross examination, he deposed that although he had a pass in his land, his pass copy is not available in the instant case record. He did not know that from where the source for construction of the instant road has been made.

In his re-examination, he deposed that being the present Chairman of Buhchang Road Association, he is well acquainted with facts of the case.

The **PW- 3** in her examination in chief deposed that she is the daughter of plaintiff no. 22 and witnessed that the plaintiff no. 22 and other plaintiffs cultivated crops and plants in the area where proposed to construct the instant road. All the compensation amount are already assessed by the SDO, PWD, Bilkhawthlir.

In her cross examination, she deposed that as the road construction had damaged their crops, they sought alternate means of livelihood.

The **PW- 4** in his examination in chief reiterated the gist of submissions and averments made in the plaint being the plaintiff no. 10 by claiming compensation amount on the basis of the assessment made by the SDO, PWD, Bilkhawthlir with the total amount of Rs. 9,19,688/- due to damaged of plantation, crops and structures of the plaintiffs. Ext. P- 1 (b) is his signature.

In his cross examination, he deposed that he did not know that from where the source for construction of the instant road has been made. The instant road construction is NH- 154.

The **PW- 5** in his examination in chief reiterated the gist of submissions and averments made in the plaint being the plaintiff no. 7 by claiming compensation amount on the basis of the assessment made by the SDO, PWD, Bilkhawthlir with the total amount of Rs. 9,19,688/- due to damaged of plantation, crops and structures of the plaintiffs. Ext. P-1 (c) is his signature.

In his cross examination, he deposed that he did not know that from where the source for construction of the instant road has been made. The instant road construction is NH- 154.

For the defendants:

The defendants had produced only one witness namely- Mr. C. Lalrinawma, S.E. National Highway Circle- 1, PWD, Govt. of Mizoram (Hereinafter referred to as **DW**). In his examination in chief, he deposed that the work allotted i.e. improvement of NH- 154 (Job No. 154 MZ 2003-04-028) belonged to the Ministry of Road Transport and Highways, Govt. of India and the Govt. of India is the sanctioning authority. As a nodal department/agency, the PWD as defendants is only executed the said work including supervision of the work. Assessment conducted by the defendants did not meant that the defendants are liable to pay compensation in the

instant case as they are not the sanctioning authority. More so, as turn down the estimate amounts at Rs. 801.40 lakhs including lumpsum provision of Rs. 12.00 lakhs, only Rs. 672.00 lakhs were accorded by deleting the lumpsum provision of Rs. 12.00 lakhs by the Ministry of Road Transport and Highways, Govt. of India. After all, although clarification is replied to the Regional Officer on 1st August, 2007, the matter lies pending in the office of the said Regional Officer. It appears that the compensation could have been paid if the said Regional Officer agrees with the direction in the technical note. He further deposed that-

Ext. D- 1 is the written statement

Ext. D- 1 (a), (b) and (c) are the signatures of Pi Lalhrangliani, Under Secretary to the Govt. of Mizoram, PWD

Ext. D- 2 is the letter of Ministry of Road Transport and Highways, Govt. of India to Secretary to the Govt. of Mizoram, PWD dt. 21.7.2003

Ext. D-3 is the letter of Chief Engineer, PWD, Highway, Mizoram to Regional Officer, Ministry of Shipping Road Transport and Highways dt. 23.11.2006.

Ext. D-4 is the letter of Executive Engineer for E.O. to C.E. PWD Mizoram, dt. 17/1/2007

Ext. D- 5 is the letter of Regional Officer to C.E dt. 17/4/2007

Ext. D- 6 is the letter of C.E PWD to R.O dt. 1.7.2007

In his cross examination, he admitted that Ext. P- 2 and 3 are technical notes dt. 21.7.2003 and sub-estimate for construction of pavement from 6/00-12/00 of NH-154 in Mizoram. He also admitted that although the defendants submitted compensation amounting to Rs. 801.40 lakhs to the Ministry of Road Transport and Highways, Govt. of India. But the said Ministry deleted 12 lakhs as instructed to make payment of the same from 16 lakhs disbursed to contingency fund. He also admitted that the plaintiffs are the recommended persons of the Govt. of Mizoram for receiving compensation. Compensation accurately assessed marked as Ext. P- 3 is sent to Regional officer, Ministry of Road Transport and Highways, Govt. of India, Guwahati but he remains fails to approve the same. It is the wishes of the defendants to make compensation payment as assessed. The said estimate marked as Ext. P-3 is accurately prepared on the spot and no exaggerated or embellished estimation is made.

TERMS OF RIVALRY

Mr. L.H. Lianhrima, learned counsel for the plaintiffs submitted at the time of arguments that it is voluminously clear from the deposition of the DW that the defendant government could not adduce any evidence to disprove that the plaintiff's contention which was submitted before the court in their plaint. As such, the Plaintiffs are entitled to receive the reliefs claimed by them in their plaint as they have successfully proved their case. However, from the light of the evidence of the defendant witness, it is found that the Regional Officer, MORT&H, Gwuahati is a proper/necessary party in the instant case since he is the authority to pass an approval for releasing the said compensation in respect of the plaintiffs. Therefore, the ld counsel for the plaintiffs humbly submits and prays that the Hon'ble Court

may pass Judgment and order in favour of the plaintiffs and also pass an order of direction to the Regional Officer, MORT&H, Guwahati to pass an approval for releasing the said compensation in favor of the plaintiffs.

On the other hand, Mr. R. Lalremruata, learned AGA stated that the defendant witness Shri. C. Lalrinawma, S.E., National Highway Circle-1, PWD deposed that the plaintiffs do not have any Land Passes in respect of the suit land. Also, the work allotted i.e. the improvement of NH-154 belonged to the Ministry of Road Transport and Highways, Govt. of India. As such the Govt. of India is the sanctioning authority. The PWD only supervised and executed the work as a nodal department/agency of the Govt. of India and therefore is not liable to pay compensation. It is therefore clear from the depositions of the Plaintiff Witnesses that the Plaintiffs have neither oral nor documentary evidence in support of their contentions. As such, the Plaintiff is not entitled to receive the reliefs claimed by them in the plaint as they have not proven their case. He concluded that taking into account all the evidences duly adduced by the witness of the rival parties and the materials available on record, it is clear that the plaintiffs are not entitled to the reliefs claimed by them.

FINDINGS

Issue No. 1

Maintainability of the plaint

Although framing the issues on maintainability of the plaint, I find no laches which vitiate the proceedings as admitted and revealed in the evidences adduced by parties. The plaintiffs also paid in full of the minimum requisite court fees at Rs. 5000/-. The plaint is also duly accompanied by affidavit of verifications in terms of O. VI. R. 15 of the CPC.

Issue No. 2

Whether the suit is bad for mis-joinder and non-joinder of necessary parties

With regards to non-joinder of necessary parties, the well settled principles of law is that caution should be whether the suit can be fruitfully and effectively adjudicated and realized with parties in the suit. Reliance may be taken in **Iswar Bhai C. Patel & Bachu Bhai Patel Vs. Harihar Behera & Anr.** decided on 16/03/1999 reported in 1999 AIR 1341, 1999 (1) SCR 1097, 1999 (3) SCC 457, 1999 (2) SCALE 108, 1999 (2) JT 250. 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, wherein, the Apex Court has held that-

“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.”

Facts germinated through evidence and pleadings reveals that Regional Officer, Ministry of Road Transport and Highways, Govt. of India having office at Guwahati is also necessary parties.

However, without impleadment of State of Mizoram as defendant, it is not proper to adjudicate the suit as recently held by the Hon’ble Gauhati High Court in the case of **Commissioner -cum-Secretary & Ors vs. T.C. Syndicate & Ors** reported in 2011 (2) GLT 12, in paragraphs 35 & 36 which is reproduced (relevant lines) as follows:

“A combined reading of the statutory provisions prescribed by sections 79 and Order 27 Rule 3 and 5A CPC makes it abundantly clear that in suits against State Government or its officers, for any official act or the “State” is required to be added as a party to the suit. Though section 80 CPC has provided that issuance of notice to “the Secretary to the Government” or “the Collector of the District” in case of claim relief against the Government is sufficient compliance, the provisions prescribed by Section 79 and Order 27 as aforesaid, make it **mandatory** that the concerned State should be added as a defendant,” (para 35).

“In the present case before us, the plaintiffs have not added “the State of Arunachal Pradesh” as a defendant. Though the Commissioner cum Secretary, Department of Power, Govt. of Arunachal Pradesh, Itanagar was added as defendant No. 1, there is nothing to find that he was added as a representative of the State Government. . . . Therefore, as the Government i.e. the State of Arunachal Pradesh has not been joined as a party, the suits are apparently hit by the statutory provisions of Section 79 and Order 79 Rule 3 & Rule 5A of CPC and as such the same are **not maintainable** in the eye of law,” (para 36).

Likewise, Union of India will be necessary party if the Regional Officer, Ministry of Road Transport and Highways, Govt. of India having office at Guwahati will be impleaded as defendant as held in **Ranjeet Mal Vs. General Manager, Northern Railway, New Delhi & Anr.**, AIR 1977 SC 1701.

Howsoever, as a very belated stage, the said lacunae may be exonerated solely for the purpose of timely justice, equity and good conscience under the aegis of S. 21 of the Mizoram Civil Courts Act, 2005 read with Section 1 (3) of the Code of Civil Procedure, 1908 as having exemption from the rigour of Code of Civil Procedure, 1908.

Issue No. 3

Whether the plaintiffs are entitled to the relief claimed or not. If so to what extend.

Before dealing the instant issue, the relief sought in the plaint is relevant to reiterate that (i) To make immediate payment of compensation amounting to Rs. 919,688/- (Rupees nine lakhs nineteen thousand six hundred eighty eight) only along with interest @ 9% per annum from the date of damaged of plantations, crops and structures of plaintiff till realization of the said Compensation. (ii) To make immediate payment of Rs. 2,00,000/- as loss of income for deprivation of their right to use their land and Rs. 1,00,000/- for mental suffering, agony etc. (iii) Any other decree or decrees or order or orders as this court may deem for and proper for the ends of justice.

As the defendants even through their evidence fully admitted the averments and submissions in the plaint supplemented by the evidences of the plaintiffs. The plaintiffs will be entitled to the relief claimed payment of compensation amounting to Rs. 9,19,688/- (Rupees nine lakhs nineteen thousand six hundred eighty eight) only along with interest @ 9% per annum from the date of damaged of plantations, crops and structures of plaintiff till realization of the said Compensation. At the rate of interest, the plaint and evidence of the plaintiffs fails to mention the date and time when damaged of plantations, crops and structures of plaintiffs, it therefore leads to grant interest rate at 9% per annum with effect from 6/9/2010 when institution of the suit. But I do not find fit to grant other reliefs as prayed.

ORDER

On meticulously examining the above findings, the defendants are directed to give compensation amounts to the plaintiffs in respect of the work allotted i.e. improvement of NH- 154 from km 6/00 to 12/00 (total 6 km) in Mizoram (Job No. 154 MZ 2003-04-028) belonged to the Ministry of Road Transport and Highways, Govt. of India amounting to Rs. 9,19,688/- (Rupees nine lakhs nineteen thousand six hundred eighty eight) viz. on the basis of the sub-estimate prepared by the PWD, Kolasib Division marked as Ext. P-3 only along with interest @ 9% per annum with effect from 6/9/2010 when institution of the suit till realization of the said compensation on account of damaged of plantations, crops and structures of the plaintiffs at Bilkhawthlir village within a period of two months from the date of this order.

Although excluded as defendants and as per the findings under issue no. 2 and as prayed by learned counsel for the plaintiffs, the Regional Officer, Ministry of Road Transport and Highways, Govt. of India, Guwahati is requested to accord sanction for payment of the said Rs. 9,19,688/- (Rupees nine lakhs nineteen thousand six hundred eighty eight) only viz. on the basis of the sub-estimate prepared by the PWD, Kolasib Division marked as Ext. P-3 along with interest @ 9% per annum with effect from 6/9/2010 when institution of the suit till realization within a period of two months from the date of this order. Parties are directed to bear their own costs.

The case shall stand disposed of accordingly.

Give this order copy to all concerned.

Given under my hand and seal of this court on this 8th December, 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- 1
Aizawl District: Aizawl

Memo No. MS/51/2010, Sr. CJ (A)/

Dated Aizawl, the 8th Dec., 2011

Copy to:

1. Mr. Lalchhuanawma S/o Sapmawia, Bilkhawthlir-1 & other plaintiffs through Mr. L.H. Lianhrima, Adv.
2. The Secretary to the Govt. of Mizoram, Public Works Department, Mizoram- Aizawl through Mr. R. Lalremruata, AGA
3. The Engineer in Chief, Public Works Department, Govt. of Mizoram through Mr. R. Lalremruata, AGA
4. The Chief Engineer, Public Works Department (NH), Govt. of Mizoram through Mr. R. Lalremruata, AGA
5. Executive Engineer, Public Works Department, Kolasib Division, Kolasib through Mr. R. Lalremruata, AGA
6. Sub-Divisional Officer, Public Works Department, Bilkhawthlir Sub-Division through Mr. R. Lalremruata, AGA
7. Regional Officer, Ministry of Road Transport and Highways, Govt. of India, Guwahati through Mr. L.H. Lianhrima, Adv.
8. P.A. to Hon'ble District & Sessions Judge, Aizawl Judicial District: Aizawl
9. Case Record

PESKAR