

**IN THE COURT OF SENIOR CIVIL JUDGE- 3
AIZAWL DISTRICT: AIZAWL, MIZORAM**

MONEY SUIT NO. 67 OF 2010

Plaintiff:

Mr. Jesse Lalrinawma
S/o Rozama (L)
Prop. Zoram Computer Clinic
Chanmari: Aizawl

By Advocates

: 1. Mr. Lalhriatpuia
2. Mr. Lalrammuana Khawlhiring

Versus

Defendant:

Smt. Hmingthanmawii
D/o Ngurluaia
Laipuitlang- Aizawl

Date of hearing : 03-03-2011
Date of Judgment & Order : 03-03-2011

BEFORE

Dr. H.T.C. LALRINCHHANA, Sr. CJ- 3

JUDGMENT & ORDER

This is a suit filed by Mr. Jesse Lalrinawma against Smt. Hmingthanmawii for payment of Rs. 3,90,000/- (Rupees three lakhs ninety thousand) with interest rate at 10% per annum to the plaintiff by the defendant. In the plaint, the plaintiff had submitted that by executing 'Inhmun Leina Lehkha' Dt. 27th August, 2009, the plaintiff had purchased a land under LSC No. AZL. 196 of 1974 which is also registered in the Office of District Registrar, Aizawl District under Deed No. 0998M Dt. 30.08.2009 in consideration of Rs. 3,90,000/- (Rupees three lakhs ninety thousand) and the plaintiff thereby paid in full of the said amount to the defendant subject to leaving liberty to the defendant within three months from the date of execution of 'Inhmun Leina Lehkha' as vehemently solicited by the defendant. The plaintiff thereafter known that the same LSC was mortgaged by the defendant to Mrs. Thantluangi, Zemabawk, Kawn Veng- II for a loan of Rs. 3,50,000/- at the relevant time, she again obtained another LSC from the Government as fraudulently applied for re-issuance of the same due to lost. The defendant further sold out some portion of that LSC. Hence, prayed to declare Inhmun Leina Lehkha' Dt. 27th August, 2009 as invalid and null and void. The plaintiff also paid in full of Rs. 5000/- as requisite court fees. The plaintiff therefore prays that (a) a decree to make an order to the defendant for payment of Rs. 3.9 lakhs to the plaintiff alongwith interest @ 10% per annum (b) any other relief which this court deem fit and proper.

Thereafter on 3/3/2011, Ld. Counsels for the plaintiff and the defendant in person appeared before this court, the defendant fairly admitted in toto that all the averments and submissions in the plaint are true and correct, no issues or objections are therefore existed and emerged in the instant suit. The plaintiff further prayed that as she is seeking loan

for recovery of such amount, she urged the court to wait for at least two months for earning of such amount.

Upon hearing of both parties and on perusal of case records, I am satisfied that no issues on any question of law or of fact had arisen in the instant suit for further proceeding of the case. O. XII, R. 6 of the CPC reads thus-

“6. Judgment on admissions— (1) Where admissions of fact have been made either in the pleading or otherwise, whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may think fit, having regard to such admissions.

(2) Whenever a judgment is pronounced under sub-rule (1) a decree shall be drawn upon in accordance with the judgment and the decree shall bear the date on which the judgment was pronounced.”

Meanwhile, the plaint is incomplete lacking the date to be reckoned from interest as well as while mentioning defendant No. 2 in somewhere of the plaint, no defendant No. 2 is put in the plaint. In this crux, the well settled law is that interest in money decree can be awarded as pendent lite interest while the contract itself is silent as recently held in **Secretary/General Manager Chennai Central Cooperative Bank Ltd. & Anr. Vs. S. Kamalaveni Sundaram** decided on 4 January, 2011 and in connection with Civil Appeal No. 14 of 2011 (Arising out of SLP (Civil) No. 19305 of 2010), the Supreme Court has held that-

“11. Section 34 of the Code of Civil Procedure, 1908 (CPC) empowers the court to award interest for the period from the date of the suit to the date of the decree and from the date of the decree to the date of payment where the decree is for payment of money. Section 34 of the CPC does not empower the court to award pre-suit interest. The pre-suit interest would ordinarily depend on the contract (express or implied) between the parties or some statutory provisions or the mercantile usage.”

Moreover, relief can only be awarded by the court within the ambit of the plaint as observed in **Bachhaj Nahar vs. Nilima Mandal and Anr** (2008) 17 SCC 491. It is relevant to extract the principles enunciated in para 23 of the judgment which are as follows.

"23. It is fundamental that in a civil suit, relief to be granted can be only with reference to the prayers made in the pleadings. That apart, in civil suits, grant of relief is circumscribed by various factors like court fee, limitation, parties to the suits, as also grounds barring relief, like res judicata, estoppel, acquiescence, non-joinder of causes of action or parties, etc., which require pleading and proof. Therefore, it would be hazardous to hold that in a civil suit whatever be the relief that is prayed, the court can on examination of facts grant any relief as it thinks fit. In a suit for recovery of rupees one lakh, the court cannot grant a decree for rupees ten lakhs. In a suit for recovery possession of property 'A', court cannot grant possession of property 'B'. In a suit praying for permanent injunction, court cannot grant a relief of declaration or possession. The jurisdiction to grant relief in a civil suit necessarily depends on the pleadings, prayer, court fee paid, evidence let in, etc."

Again recently in **State Of Orissa & Anr. vs Mamata Mohanty** decided on 9 February, 2011 in connection with Civil Appeal No. 1272 of 2011, the Supreme Court has held that-

“35. Pleadings and particulars are required to enable the court to decide the rights of the parties in the trial. Thus, the pleadings are more to help the court in narrowing the controversy involved and to inform the parties concerned to the question in issue, so that the parties may adduce appropriate evidence on the said issue. It is a settled legal proposition that "as a rule relief not founded on the pleadings should not be granted." Therefore, a decision of a case cannot be based on grounds outside the pleadings of the parties. The pleadings and issues are to ascertain the real dispute between the parties to narrow the area of

conflict and to see just where the two sides differ. (Vide : Sri Mahant Govind Rao v. Sita Ram Kesho, 30 (1898) 25 Ind. App. 195; M/s. Trojan & Co. v. RM. N.N. Nagappa Chettiar, AIR 1953 SC 235; Ishwar Dutt v. Land Acquisition Collector & Anr., AIR 2005 SC 3165; and State of Maharashtra v. Hindustan Construction Company Ltd., (2010) 4 SCC 518.)”

Thus, by virtue of O. XII, R. 6 of the CPC, the plaintiff's is decreed at Rs. 3,90,000/- (Rupees three lakhs ninety thousand) with interest rate at 10% per annum with effect from 14/12/2010 when institution of the suit. Due to fair admission and cooperative attitude of the defendant towards timely and fairly justice, no order as to costs of the suit. As covenanted in her submission, the said Rs. 3,90,000/- (Rupees three lakhs ninety thousand) with interest rate at 10% per annum with effect from 14/12/2010 till realization shall be paid to the plaintiff by the defendant within ninety days from the date of this order.

Decree shall be drawn within fifteen days from the date of this judgment & order.

The case shall stand disposed of accordingly. Give this copy along with decree to both parties and all concerned.

Dr. H.T.C. LALRINCHHANA

Senior Civil Judge- 3
Aizawl District: Aizawl

Memo No. MS/67/2010, Sr. CJ (A)/

Dated Aizawl, the 3rd March, 2011

Copy to:

1. Mr. Jesse Lalrinawma S/o Rozama (L), Prop. Zoram Computer Clinic, Chanmari: Aizawl through Mr. Lalhriatpuia, Advocate
2. Smt. Hmingthanmawii D/o Ngurluaia, Laipuitlang- Aizawl through Mr. Lalhriatpuia, Advocate
3. P.A. to District & Sessions Judge, Aizawl Judicial District: Aizawl
4. Case record.

PESKAR