

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

MONEY SUIT NO. 01 OF 2003

Plaintiffs:

1. Mr. C. Sangkhuma
S/o Liansiama
North Vanlaiphai
Serchhip District
2. Mr. Saichhunga (L)
Represented by
Mr. Lianringa
North Vanlaiphai
Serchhip District
3. Mr. Thangchhunga (L)
Represented by
Thangchhingpuia
North Vanlaiphai
Serchhip District
4. Mr. Thangkhuma (L)
Represented by
Mr. R. Sangzuala
North Vanlaiphai
Serchhip District
5. Mr. Manliana
S/o Khawsela
North Vanlaiphai
Serchhip District
6. Mr. Lalchhawna
S/o Chungnunga
North Vanlaiphai
Serchhip District
7. Mr. K. Sena (L)
Represented by
Mr. K. Rosangliana
North Vanlaiphai
Serchhip District
8. Mr. Lalthara
S/o Hrangsele
North Vanlaiphai
Serchhip District
9. Mr. Puia Ralte (L)
Represented by
Mr. V.L. Bela
North Vanlaiphai
Serchhip District
10. Mr. L. Ramliana
S/o Saichhuma

- North Vanlaiphai
Serchhip District
11. Mr. Vaitawna (L)
Represented by
Mr. F. Lalthanzama
North Vanlaiphai
Serchhip District
 12. Smt. Thanthuami (L)
Represented by
Mr. Lalthanmawia Sailo
North Vanlaiphai
Serchhip District
 13. Mr. Lianzuala (L)
Represented by
Mr. R.K. Lianhmingthanga
North Vanlaiphai
Serchhip District
 14. Mr. Rohmingthanga
S/o R. Kapkunga
North Vanlaiphai
Serchhip District
 15. Mr. K. Vawmkaia
S/o Laltawnga (L)
North Vanlaiphai
Serchhip District
 16. Mr. Remtluanga (L)
Represented by
Smt. Thasiامي
North Vanlaiphai
Serchhip District
 17. Mr. R. Satinhela
S/o Hranglawta
North Vanlaiphai
Serchhip District
 18. Mr. J. Chalhira
S/o Lalrikhuma
North Vanlaiphai
Serchhip District
 19. Mr. C. Saipianga
S/o Thatkunga (L)
North Vanlaiphai
Serchhip District
 20. Mr. Thangkima
S/o Dozika (L)
North Vanlaiphai
Serchhip District
 21. Mr. Chhungleia (L)
Represented by
Smt. Hmangaihzuai
North Vanlaiphai
Serchhip District

22. Mr. F. Rokunga
S/o Hrangtawna
North Vanlaiphai
Serchhip District
23. Mr. Hrangngura
S/o Lalkunga (L)
North Vanlaiphai
Serchhip District
24. Mr. Kapzauva (L)
Represented by
Mr. R. Lawmsiama
North Vanlaiphai
Serchhip District
25. Mr. Rothangvunga
S/o Liankamlova
North Vanlaiphai
Serchhip District
26. Mr. Lalnghaka
S/o Lalkunga
North Vanlaiphai
Serchhip District
27. Mr. Lalhluna
S/o Lalkunga
North Vanlaiphai
Serchhip District
28. Mr. Denghmingthanga
S/o Neihluia
North Vanlaiphai
Serchhip District
29. Mr. Rothangvunga
S/o Liankamlova
North Vanlaiphai
Serchhip District
30. Mr. K. Hrangbuka
S/o Chaltuaka
North Vanlaiphai
Serchhip District
31. Mr. Saibaka (L)
Represented by
Mr. Lalchamlia
North Vanlaiphai
Serchhip District
32. Mr. Lalsanga (L)
Represented by Mr. K. Lalmawia
North Vanlaiphai
Serchhip District
33. Smt. Kapzawni
D/o Dozika
North Vanlaiphai
Serchhip District
34. Mr. S. Lalbiakvela

- S/o Saichhuma
North Vanlaiphai
Serchhip District
35. Mr. Siamthanga
S/o Hrangtawna
North Vanlaiphai
Serchhip District
36. Mr. R.L. Buatsaiha
S/o Thanthuama
North Vanlaiphai
Serchhip District
37. Smt. Robuangi
D/o Dengthuama
North Vanlaiphai
Serchhip District
38. Smt. Sapzingi
D/o Hrangbiaka
North Vanlaiphai
Serchhip District
39. Mr. Thangthuama
S/o Tawna
North Vanlaiphai
Serchhip District
40. Mr. F. Aihnuna
S/o Hrangbiaka
North Vanlaiphai
Serchhip District
41. Smt. Zasangi
D/o Hrangsela
North Vanlaiphai
Serchhip District
42. Mr. Tlanglawma (L)
Represented by
Smt. Lalremruati
North Vanlaiphai
Serchhip District
43. Mr. Hrangduna (L)
Represented by
Mr. K. Lalfinga
North Vanlaiphai
Serchhip District
44. The L.A.D., UPC
Represented by its Chairperson
North Vanlaiphai
Serchhip District
45. Presbyterian Hmeichhe Pawl
Represented by its Chairperson
North Vanlaiphai
Serchhip District

46. Mr. Thansanga
S/o Kawlthangpuia
North Vanlaiphai
Serchhip District

47. Mr. Lalhminga
S/o Khawsela (L)
North Vanlaiphai
Serchhip District

By Advocates

: 1. Mr. C. Lalramzauva Sr. Adv.
2. Mr. A. Rinliana Malhotra
3. Joseph Lalfakawma Adv.
4. Mr. T.J. Lalnuntluanga Adv.
5. Mr. K. Laldinliana Adv.

Versus

Defendants:

1. The state of Mizoram
Represented by the Chief Secretary
to the Government of Mizoram
2. The Principal Chief Conservator of Forests
Govt. of Mizoram
3. The Divisional Forest Officer
North Vanlaiphai Forest Division
North Vanlaiphai, Serchhip District
4. The Range Officer
Office of the Divisional Forest Officer
North Vanlaiphai Forest Division
North Vanlaiphai, Serchhip District
5. The Director
Land Revenue and Settlement Department
Govt. of Mizoram

By Advocates

For the defendants 1-4	: Mr. B. Lalramenga, Adv.
For the defendant no. 5	: 1. Mr. R. Lalremruata, AGA 2. Miss Bobita Lalhmingmawii, AGA

Date of Arguments	: 03-11-2011
Date of Judgment & Order	: 09-11-2011

BEFORE

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

JUDGMENT & ORDER

INTRODUCTORY

All the plaintiffs authorized the plaintiff no. 34 namely- Mr. S. Lalbiakvela S/o Saichhuma, North Vanlaiphai, Serchhip District to appear, plead or act for all of them in the instant proceedings by executing deed on 20-10-2004 under O. 1 R. 12 of the Code of Civil Procedure, 1908. However, as deposed by PW-1, the plaintiff no. 14 namely- Mr. Rohmingthanga S/o R. Kapkunga, North Vanlaiphai, Serchhip District himself had withdrawn from the instant case and is being quit from the instant case accordingly.

In the light of the judgment & order passed by the Hon'ble Gauhati High Court, Aizawl Bench in Writ Petition No. 4 of 1991 on 21-02-2000 which directed the plaintiffs to approach the civil court saying that *".... The grant of compensation would depend upon the petitioners proving certain facts which cannot be done in writ jurisdiction. The petitioners, according to their best case before us, are cultivating the land since 1991 when they came to this court. If there was still any disturbance in their possession prior to there-to they should have approached either civil court or some other appropriate forum. If any such remedy is available even now, the petitioners may avail of the same. In writ jurisdiction it is difficult for us to assess any amount particularly when no figure has been averred in the petition."*, the instant case has been filed.

NUCLEUS OF THE CASE

The facts of the Plaintiffs' case in brief is that the Plaintiffs who are 47 in number, and residents of N. Vanlaiphai, are the owners of their respective farm-land by virtue of permits and periodic pattas issued to them by competent authorities at different points of time, and in which they had cultivated potatoes as cash crops as well as other variety of vegetables for sale and consumption, solely depending upon it for their livelihood. Since they had been regularly marketing potatoes, even the Agriculture Department, Govt. of Mizoram had also on several occasions, procured potato seeds from them. The average production of potatoes from the N. Vanlaiphai area at the relevant period is that out of every quintal of cultivation, about 6 quintals are produced and in every bigha of farm-land, the Plaintiffs used to sow about 2 quintals of potatoes from which they usually reaped not less than 12 quintals during harvest each year. The rate of potatoes per quintal at the relevant time was about Rs.1,000/- Thus, the Plaintiffs used to earn about Rs.12,000/- annually from cultivation of potatoes in each bigha of their farm-land.

The Defendant No.4 on 13/2/91, without serving any show-cause notice to the Plaintiffs had issued notice of arrest to the Plaintiffs u/s 24(5) of the Mizoram Forest Act, 1955 allegedly for cultivating in the Hrangtur Reserve Forest Area without permission. Again, on 21/2/91, the Defendant No.4 had sent W.T. Message to the Defendant No.2 stating that Hrangtur Forest Reserve should be maintained and no 'Alu farm' should be cultivated

within the notified area. Since then, the Plaintiffs had been obstructed forcibly by the Government from cultivating their respective farm-land. Being aggrieved, the Plaintiffs through the Peoples Union for Civil Liberties (PUCL) had filed a Writ Petition before the Hon'ble Gauhati High Court, Aizawl Bench, and the said High Court had finally disposed of the case on 21/2/2000 with an observation that the Plaintiffs are entitled to possession and grow potato crops till they were disturbed in their possession by following due process of law. Further, grant of compensation relating to the loss incurred to the Plaintiffs due to their illegal dispossession by the Defendant would depend upon the Plaintiffs' proving certain facts which can not be done in Writ Jurisdiction and had suggested the Plaintiffs to approach either Civil or other appropriate forum for compensation.

The Plaintiffs had prepared a table specifically recording the details of their respective land and the loss incurred by them due to their illegal dispossession by the Defendants, the same had been prepared as per relevant information and statistics relating to production of potatoes. Thereafter, the Plaintiffs had served a notice u/s 80 CPC to the Defendants; however, no response had been made by the Defendants even after a lapse of more than 3 months. In fact, the illegal dispossession of the Plaintiffs amounts to violation of their rights to life as well as deprivation of their rights over their landed properties. In view of the facts and circumstances stated above, the Plaintiffs claim the following relief(s):

(i). For a decree declaring that the Plaintiffs had been illegally dispossessed by the Defendants for a period of 10 years (from 1991 to 2000) consequent upon which the Plaintiffs are deprived of their means of livelihood,

(ii). For a decree declaring that the Plaintiffs are entitled to payment of a total compensation amounting to Rs.1,88,40,000/- (Rupees one crore eighty eight lakhs forty thousands) only with pendente lite interest at a rate of 15% p.a. and to get their own share of compensation in respect of damage due to their illegal dispossession for a period of ten (10) years i.e. from 1991 to 2000 as shown in schedule 'A' of ANNEXURE-52 against their names,

(iii) For cost of the suit, and

(iv) For any other relief(s) as may be deemed fit and proper by this Court.

The suit was contested by the Defendants No.1-5 by filing Written Statements wherein they had stated that the formation of the State Reserve Forest at Hrangtur was made after issuance of a Notification Memo No.B.11012/15/84-FST dt.5/9/84 i.e. notice inviting objection against formation of the said State Reserve Forest under the Mizoram Forest Act, 1955. They had also stated that the Plaintiffs are not the legal owners of the suit land, instead they are illegal encroachers and the fertility of the soil has been lost due to the repeated cultivation by the Plaintiffs. They denied the claim of the Plaintiffs as supplying potato seeds to the Agriculture Department, and they also denied the quantity of potatoes harvested in a

year as stated in the plaint by the Plaintiffs. Thus, prayed to dismiss of the suit with suitable costs.

ISSUES

The issues were framed on 21/10/2004 but amended by this court by virtue of O. XIV R. 5 of the CPC and the amended form thereof are as under-

1. Whether there is a cause of action in favour of the Plaintiffs and against the Defendants.
2. Whether the passes issued to the Plaintiffs are legally valid.
3. Whether the Plaintiffs were illegally dispossessed of their lands by the Defendants. If so, for which period?
4. Whether the Plaintiffs had incurred any loss of income/ prospective earning due to the action of the Defendants.
5. Whether the Plaintiffs are encroachers within Hrangtur Reserved Forest and whether they have any rights within the said Hrangtur Reserved Forest area.
6. Whether the Plaintiffs are entitled to the reliefs claimed. If so to what extend.

BRIEF ACCOUNT OF EVIDENCE

For the plaintiffs:

The plaintiff had produced the following witnesses namely-

- (1) Mr. Lalbiakvela S/o Saichhuma (L), North Vanlaiphai, Serchhip District (Hereinafter referred to him as PW- 1)
- (2) Mr. K. Vawmkaia S/o Laltawnga (L), North Vanlaiphai, Serchhip District (Hereinafter referred to him as PW- 2)
- (3) Mr. R. Satinhela S/o Hranglawta (L), North Vanlaiphai, Serchhip District (Hereinafter referred to him as PW- 3)
- (4) Mr. R. Sapbethanga S/o Bawktea (L), North Vanlaiphai, Serchhip District (Hereinafter referred to him as PW- 4)

The **PW-1** in his examination in chief deposed that being act on behalf of the plaintiffs, he stated that they have been developing their respective lands even since the allotment by cultivating potatoes as cash crops as well as other variety of vegetables for consumption. Production of potatoes from the area had increased considerably due to their hard earned labour. The Department of Agriculture, Govt. of Mizoram had also on several occasions procured potato seeds from them. In the region, they used to sow about 2 quintals of potatoes in every bigha of the farm land and from which they usually reaped not less than 12 quintals of potatoes during harvest each year. The rate of sale of potatoes per quintal at the relevant time was about Rs. 1000/-. Thus, in each bighas, they can earned Rs. 12,000/- annually from cultivation of potatoes in their farm land. Without serving any show cause notice to them, the Range Officer North Vanlaiphai Forest Division had issued notice of arrest on 13/2/1991 under section 24 (5) of the Mizoram Forest Act, 1955 allegedly for cultivating Hrangtur Reserve Forest

without permission. The Director of Land Revenue and Settlement also wrote a letter under Memo No. A. 19011/2/90-DTE (REV)/15 stating that Hrangtur Forest Reserve should be maintained and protected as allegedly notified earlier and no potato should be cultivated within the notified area. A legal notice u/s 80 of CPC was also duly served on 18/7/2001. As illegaly dispossessed by the defendants thereby depriving them of their livelihood for a period of about 10 years i.e. from 1991 to 2000. He further deposed that-

- Ext. P-1 is Permit No.170 of 1975 belonging to the Plaintiff No.1.*
- Ext. P-2 is V/C Pass dt.31/1/70 issued by VCP, N.Vanlaiphai to Saichhunga, Plaintiff No.2.*
- Ext. P-3 is P/Patta No.192 of 1997 issued to Thangchhunga, Plaintiff No.3.*
- Ext. P-4 is V/C Pass dt.6/1/72 issued to Thangkguma, Plaintiff No.4.*
- Ext. P-5 is P.Patta No.208/79 belonging to Manliana, Plaintiff No.5.*
- Ext. P-6 is P.Patta No.494/99 belonging to Lalchhawna, Plaintiff No.6.*
- Ext. P-7 is V/C Pass dt.3/2/70 belonging to K.Sena, Plaintiff No.7.*
- Ext. P-8 is V/C Pass dt.6/1/72 belonging to Lalthara, Plaintiff No.8.*
- Ext. P-9 is V/C Pass dt.6/1/72 belonging to Puia Ralte, Plaintiff No.9.*
- Ext. P-10 is P.Patta No.190/79 belonging to L.Ramliana, Plaintiff No.10.*
- Ext. P-11 is Permit No.427/75 belonging to Vaitawna, Plaintiff No.11.*
- Ext. P-12 is P.Patta No.495/76 belonging to Thanthuami, Plaintiff No.12.*
- Ext. P-13 is P.Patta No.498/76 belonging to Lianzuala, Plaintiff No.13.*
- Ext. P-14 is P.Patta No.493/76 belonging to K.Vawngkaia, Plaintiff No.15.*
- Ext. P-15 is P.Patta No.1678/76 belonging to Remtluanga, Plaintiff No.16.*
- Ext. P-16 is P.Patta No.490/76 belonging to R.Satinbela, Plaintiff No.17.*
- Ext. P-17 is P.Patta No.1702/76 belonging to J.Chalhira, Plaintiff No.18.*
- Ext. P-18 is P.Patta No.496/76 belonging to S.Saipianga, Plaintiff No.19.*
- Ext. P-19 is P.Patta No.1681/76 belonging to Thangkima, Plaintiff No.20.*
- Ext. P-20 is P.Patta No.322/79 belonging to Chhunghnaiha, Plaintiff No.21.*
- Ext. P-21 is VC Pass dt.6/1/72 belonging to F.Rokunga, Plaintiff No.22.*
- Ext. P-22 is P.Patta No.762/77 belonging to Hrangngura, Plaintiff No.23.*
- Ext. P-23 is P.Patta No.221/79 belonging to Kapzauva, Plaintiff No.24.*
- Ext. P-24 is P.Patta No.185/79 belonging to Rothangvunga, Plaintiff No.25.*
- Ext. P-25 is VC Pass dt.6/1/72 belonging to Lalnghaka, Plaintiff No.26.*
- Ext. P-26 is P.Patta No.207/79 belonging to Lalhluna, Plaintiff No.27.*
- Ext. P-27 is P.Patta No.600/76 belonging to Denghmingthanga, Plaintiff No.28.*
- Ext. P-28 is P.Patta No.13/77 belonging to Rothangvunga, Plaintiff No.29.*
- Ext. P-29 is VC Pass dt.10/2/70 belonging to K.Hrangbuka, Plaintiff No.30.*
- Ext. P-30 is VC Pass dt.6/1/72 belonging to Saibaka, Plaintiff No.31.*
- Ext. P-31 is VC Pass dt.6/1/72 belonging to Lalsanga, Plaintiff No.32.*
- Ext. P-32 is VC Pass dt.6/1/72 belonging to Kapzawni, Plaintiff No.33.*
- Ext. P-33 is VC Pass dt.10/2/70 belonging to S.Lalbiakvela Plaintiff No.34.*
- Ext. P-34 is VC Pass dt.6/1/72 belonging to Siamthanga, Plaintiff No.35.*

Ext. P-35 is P.Patta No.491/76 belonging to R.L.Buatsaiha, Plaintiff No.36.

Ext. P-36 is VC Pass dt.10/2/70 belonging to Robuangi, Plaintiff No.37.

Ext. P-37 is VC Pass dt.10/2/70 belonging to Sapzingi, Plaintiff No.38.

Ext. P-38 is VC Pass dt.10/2/70 belonging to Thangthuama, Plaintiff No.39.

Ext. P-39 is VC Pass dt.10/2/70 belonging to F.Aihnuna, Plaintiff No.40.

Ext. P-40 is VC Pass dt.10/2/70 belonging to Zasangi, Plaintiff No.41.

Ext. P-41 is VC Pass dt.6/1/72 belonging to Tlangnuama, Plaintiff No.42.

Ext. P-42 is VC Pass dt.10/2/70 belonging to Hrangduna, Plaintiff No.43.

Ext. P-43 is VC Pass dt.10/2/70 belonging to LAD, Leilet Veng, Plaintiff No.44.

Ext. P-44 is VC Pass dt.10/2/70 belonging to Kohran Hmeichhia, Plaintiff No.45.

Ext. P-45 is VC Pass dt.6/1/72 belonging to Thansanga, Plaintiff No.46.

Ext. P-46 is VC Pass dt.6/1/72 belonging to Lianhminga, Plaintiff No.47.

Ext. P-47 is HC in respect of Plaintiff No.2.

Ext. P-48 is HC in respect of Plaintiff No.3.

Ext. P-49 is HC in respect of Plaintiff No.4.

Ext. P-50 is HC in respect of Plaintiff No.7.

Ext. P-51 is HC in respect of Plaintiff No.9.

Ext. P-52 is HC in respect of Plaintiff No.11.

Ext. P-53 is HC in respect of Plaintiff No.12.

Ext. P-54 is HC in respect of Plaintiff No.13.

Ext. P-55 is HC in respect of Plaintiff No.16.

Ext. P-56 is HC in respect of Plaintiff No.21.

Ext. P-57 is HC in respect of Plaintiff No.24.

Ext. P-58 is HC in respect of Plaintiff No.31.

Ext. P-59 is HC in respect of Plaintiff No.32.

Ext. P-60 is HC in respect of Plaintiff No.42.

Ext. P-61 is HC in respect of Plaintiff No.43.

Ext. P-62 is notice issued by RO, North Vanlaiphai (Mzr) (Defendant N0.4) showing the Plaintiffs as being arrested.

Ext. P-63 is WT message dt.21/2/91 from Director, LR & S informing the AO, N.Vanlaiphai that the Plaintiffs should not be allowed to cultivate their farm lands.

Ext. P-64 is a letter Memo No.D.12017/13/90-FDV/ dt.4/3/91 from the DFO, N.Vanlaiphai Forest Division to AO, N. Vanlaiphai.

Ext. P-65 is the Judgment & Order dt.21/2/2000 passed by the Hon'ble Gauhati High Court in WPC No.4 of 1991 in respect of the claim of the Petitioners/Plaintiffs.

Ext. P-66, 67, 68 & 69 are the details of land holding along with the area and amount claimed by each of the Plaintiffs in connection with their respective garden lands.

Ext. P-70 is notice dt.19/6/01 U/s 80 CPC issued by the lawyer of the Plaintiffs, wherein payment of compensation as per Ext.P-66-69 was claimed from the Defendant.

Ext. P-71 is authorization made by the other Plaintiffs under Order 1 Rule 12 CPC authorizing to represent all of them in connection with the present suit.

Meanwhile, the plaintiff no. 14 was withdrawn from the instant case and he may be deleted from the instant case.

In his cross examination, he deposed that he was issued a permit for growing Potato by the Village Council, North Vanlaiphai on 10.2.1970 as garden permit. He admitted that he did not know the plaintiff no. 2. Ext. P-3 i.e. Heirship certificate was issued in favour of Mr. Thangchhingpuia. He admitted that the plaintiffs had cultivated potatoes within the Reserve Area of Hrangtur Reserve Forest as they have been issued permit for the same. He also admitted that the plaintiffs had no documentary proof showing their production and supply made by them to the Agriculture Department or elsewhere.

The **PW- 2** in his examination in chief deposed that during 1970 to the period of attainment of UT hood in Mizoram, the peoples of North Vanlaiphai were allotted garden land in the suit land by the Village Council of North Vanlaiphai and some of the occupants obtained valid permit/pass from the competent authority. He himself also obtained Periodic Patta No. 493 of 1976 with 3 bighas. Since 2000, he resumed to cultivate potatoes in his suit land. In the present context, he used to sell his product potatoes at Rs. 18/- per kg. There is no marketing problems as their neighbouring villages demand the same. The customers rather preferred their potatoes than potatoes produced in outside the state. At the lowest estimation, they can produced 12 quintals of potatoes in one bigha. Since 1990, the Forest Department intruded in their cultivation. The Range Officer, North Vanlaiphai also warned them to arrest by issuing a letter dt. 3rd Feb., 1991. As no other remedy, they had approached the Hon'ble Writ court, as per the order of the said writ court, they resumed cultivation in their respective farms since 2000. He further deposed that their estimated scheduled for quantum of compensation is accurate. Ext. P- 14 is P. Patta No. 493 of 1976.

In his cross examination, he deposed and denied that they did not made a complaint regarding establishment of the said Reserve Forest.

The **PW-3** in his examination in chief deposed that he was the Village Council Member (Ruat Seat) since 1970 to till attainment of UT hood in Mizoram at North Vanlaiphai. The instant land was allotted to the plaintiffs during 1970-1971 by the Village council and he himself was also allotted the suit land as depends on cultivation. He occupied 3 bighas and produced not less than 30 quintals in one bigha. His annual product thereby falls at 90 quintals to 100 quintals. Just before the year of 1991, the Forest Department created obstruction against them by trying to evict them from the suit land. By pending their case in the Hon'ble Gauhati High Court for about 10 years, as delivered judgment in their favour, they had resumed cultivation since 2000.

In his cross examination, he deposed that he obtained P. Patta No. 490 of 1976 in his suit land as Ext. P-16. Before that he cultivated on the basis of the village council pass. He admitted that he did not have any

documentary proof indicating the quantum of production of potatoes annually in his suit land.

Although exam in chief of PW- 4 was submitted, he was not cross examined as he was dropped from the case as found that he was unable to attend the court being an old age.

For the defendants:

The defendants had also produced the following witnesses namely-

- (1) Mr. C. Lalbiakthanga, DFO, North Vanlaiphai Forest Division (Hereinafter referred to him as DW- 1)
- (2) Mr. H. Zakima, North Vanlaiphai, Serchhip District (Hereinafter referred to him as DW- 2)

The **DW-1** in his examination in chief deposed that as far as his knowledge, preliminary notification dt. 5th September, 1984 was passed by the Government of Mizoram stating that the said disputed land was declared as Hrangtur Reserve Forest covering an area of 94.640 Hectare (Approximately). He mentioned the exact boundary description also. Later on 23rd Nov., 1987, the said reserve forest was declared as Hrangtur Reserved Forest by the Government of Mizoram since no objection regarding the declaration of such land into reserved forest area was received. The said boundary description was also approved. The plaintiffs are not the legal owners of the disputed land. The validity of the said Periodic Patta issued in favour of some of the plaintiffs had already expired. As per section 5 of the Mizo District (Land and Revenue) Act, 1956, the pass holder have no right beyond a rights of user for a period for which it is given/allotted. The disputed land is not also suitable for wet rice cultivation. Their illegal encroachment caused soil erosion and landslide. As the suit land is declared as the Hrangtur Reserved Forest area, the plaintiff should not have any rights to cultivate/use.

In his cross examination, he deposed and admitted that the passes/pattas issued to the plaintiffs were prior to the preliminary notification dt. 5.9.1984 for Hrangtur Reserve Forest area. He denied that they did not give any notice to the plaintiffs to show cause as to why the suit land should not be declared as Hrangtur Reserve Forest area. He admitted that there is no cancellation order of the land passes/pattas of the plaintiffs by the competent authorities. He denied that the plaintiffs are entitled to the relief claimed in the instant case.

The **DW- 2** in his examination in chief deposed that the plaintiffs has no right upon the claim lands. No plaintiffs has hold LSC. Moreover, out of 47 plaintiffs, only 20 persons were given periodic pattas u/s 3 of the Mizo District (Agricultural Land) Act, 1963 but their validity was expired at the time of issuance of Notification on 23.11.1987. There is no regular supply of potatoes to the Agriculture Department from the region. For the purpose of declaration of Hrangtur Reserve Forest area, no objections/applications were found in their official records. 95% of the population of N. Vanlaiphai

and 100% of the surrounding villages peoples are likely protect Hrangtur Reserve Forest area.

In his cross examination, he deposed that since 12.10.2009, he stayed at N. Vanlaiphai as Range Officer. Before that he was posted at Champhai. He admitted that it is his first time posted at N. Vanlaiphai. He also admitted that before he was posted at N. Vanlaiphai, the instant disputes had arisen. He also admitted that he did not have any personal knowledge about cultivation of potatoes in the suit land before 1991 as well as quantity of production of potatoes in a year by the plaintiffs in the suit land. He denied that the plaintiffs are cultivating the suit land properly. He further admitted that he have no knowledge as to whether the passes of the plaintiffs have been cancelled by the Government or not.

TERMS OF ARGUMENTS

Mr. C. Lalramzauva, learned senior advocate submitted that In view of what has been stated in the plaint and the evidence adduced by the parties and their witnesses, it is crystal clear that the Plaintiffs were allotted their respective farm/garden lands for cultivation of potato and other cash crops in which they had produced a large quantity of potatoes every year. However, on the strength of the Notification dt.23/11/87, the Plaintiffs were illegally evicted from their respective garden lands restraining them from making used of or reaping the benefit of their said garden lands for long 10 years. However, the Plaintiffs having approached the Hon'ble Gauhati High Court, by filing the said Writ Petition No.4 of 1991, possession of their respective garden lands were restored to the Plaintiffs vide Judgment & Order dt.21/2/2000 in as much as the manner in which the Plaintiffs were dispossessed of their said garden lands was in a most illegal manner. Since, the Defendants did not deny that the Plaintiffs were cultivating potatoes in their respective farms/garden lands and since no evidence was produced by the Defendants to prove that the Plaintiffs did not produce a potatoes as claimed by the Plaintiffs prior to the year 1991 i.e. the year when they were illegally restrained from making cultivation on the basis of Exhibits P- 63, P - 64 & P - 65, it cannot but be held that the Plaintiffs had sufficient cause of action for filing the suit claiming damages/compensation against the Defendants and that the Plaintiffs are entitled to reliefs as sought for by them in the instant suit. In fact, the Plaintiffs did not make cultivation of their respective farm/lands without any authority of law, and though initially they were allowed to cultivate their said lands for cultivation of potatoes by the Village Council authorities, most of them had obtained Revenue Passes from the authorities of the State subsequent to such allotments made by the Village Council of North Vanlaiphai and the said Passes were renewed from time to time. The crux of the matter was whether the Plaintiffs were rightly restrained from utilizing the respective lands by the Forest Department. This matter was already set at rest by the Hon'ble High Court as stated earlier and it is no longer an issue at this stage. What this Hon'ble Court is called upon to decide in the instant suit is whether the Plaintiffs should be compensated for the loss suffered by them due to the illegal action of the Defendants. If it is held that they are entitled to the compensated they are to be compensated by way of restoration of the

benefits derived by them in respect of their said lands by cultivating potatoes. Since, it would not be possible to term back the hands of the clock for 10 years, what this Court is expected to do is to direct the Defendants to compensate the Plaintiffs by directing them to pay the amount of loss incurred by them for a period of 10 years as claimed by them by way of a money decree. The Plaintiffs, having proved their case by producing reliable witnesses and documents, are entitled to payment of compensation amounting to Rs.1,88,40,000/- (Rupees one crore eighty eight lakhs fourty thousands) only with pendente lite interest at a rate of 15% p.a. and to get their own share of compensation in respect of damage due to their illegal dispossession for a period of ten (10) years i.e. from 1991 to 2000 as shown in schedule 'A' of ANNEXURE-52 against their names.

Mr. B. Lalramenga, learned advocate for the defendants argued that as the passes/permit of the plaintiffs are not valid as the village council are not competent to issue garden pass/agricultural pass as per the existing land laws plus the periodic pattas of the plaintiffs those who depends on periodic pattas were already expired. The plaintiffs have no locus standi to file the instant suit. Moreover, the claims of the plaintiffs are baseless as failure to documentary proof of their annual income in the suit land and is not ascertained/secured their productions in a year as it mostly depends on the climatic conditions in a year. The suit is therefore liable to dismiss with cost.

FINDINGS

Issue No. 1

Whether there is a cause of action in favour of the Plaintiffs and against the Defendants.

The terminology of cause of action is already settled in **Swamy Atmananda & Ors.Vs. Sri Ramakrishna Tapovanam & Ors.** decided on 13/04/2005 in connection with Appeal (Civil) 2395 of 2000 and reported in 2005 AIR 2392, 2005 (3) SCR 556, 2005 (10) SCC 51, 2005 (4) SCALE 117, 2005 (4) JT 472, it was held that-

“A cause of action, thus, means every fact, which, if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the Court. In other words, it is a bundle of facts which taken with the law applicable to them gives the plaintiff a right to relief against the defendant. It must include some act done by the defendant since in the absence of such an act no cause of action can possibly accrue. It is not limited to the actual infringement of the right sued on but includes all the material facts on which it is founded.”

The concept and nature of *locus standi* is also well germinated 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." Thus 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.”

In the instant case, admittedly, the plaintiffs by obtaining some authorities cultivated potatoes in the suit land and later tried to evict by the defendants as by a simple letter wrote by the Range Officer concerned in accordance with the Mizoram Forest Act, 1955 which leads paucity of growing potatoes in the suit land during pendency of the case in the Hon’ble Gauhati High Court, Aizawl Bench will have cause of action and locus standi to file the instant suit.

Issue No. 2

Whether the passes issued to the Plaintiffs are legally valid.

With regards to the passes issued by the village council, holistic discussions may be made that Section 3 of the Lushai Hills District (House Sites) Act, 1953 reads thus-

“3.Allotment of sites:

- (1) Subject to the provisions of sub-section (2) of this section, a Village Council shall be competent to allot sites within its jurisdiction for residential and other non-agricultural purpose with the exception of shops and stalls which include hotels and other business houses of the same nature.”

In this pursuance and may be because of usurpation of their powers, the Government of Mizoram reiterated that all the Village Councils in the then Aizawl and Lunglei Districts under the Lushai Hills District (House Sites) Act, 1953 are not competent to make allotment of land for agricultural purposes. Such Passes issued by the Village Councils cannot be honoured and regularized by the Government. Purchase of such Garden Passes and later applied for regularization is strictly prohibited by the Government.

It was further notified that such illegal allotment of Agricultural lands by the Village Councils is seriously viewed by the Government. The Local Administration Department had been requested to collect information on such unauthorized issue of the Garden Passes for the last three years and to take appropriate action against those Village Councils who failed to comply with the Acts mentioned above under Notification No. K-53011/28/92- REV/7 (A), the 31st August, 1992 published in the Mizoram Gazette, Extra Ordinary, Vol. XXI, 8.9.1992, Issue No. 163.

Further Section 4(1) of the Mizo District (Agricultural Land) Act, 1963 provides

“The Administrator or the Officers authorised by it, in writing, shall have the power to allot any vacant land for the purpose of farm.”

Section 7 (2) of the Mizo District (Agricultural Land) Act, 1963 also provides that-

“No person shall acquire by length of possession or otherwise any right over land disposed of, allotted or occupied, unless registered and Patta obtained in accordance with the provisions of this Act.”

Well known, the authority of village council on agricultural land is only extended under the Lushai Hills District (Jhuming) Regulation, 1954 for the purpose of distributing only one year time jhuming viz. slash and burnt method of jhuming.

It may also be relevant Entry 45 of Seventh Schedule to the Constitution of India which runs as-

“45. Land revenue, including the assessment and collection of revenue, the maintenance of land records, survey for revenue purposes and records of rights, and alienation of revenues.”

So is the entity and factual matrix, the village council passes on agricultural land will not be valid.

With respect of Periodic Patta, the entity is obvious that Periodic Patta can be issued under section 4 (3) of the Mizo District (Agricultural Land) Act, 1963 which is temporary in nature as the name itself indicates as put under Terms and Conditions no. 1 in the back side of the prescribed Periodic Patta form. Paragraph No. 9 of the conditions of issuance speaks that-

“9. This Periodic Patta may be cancelled without compensation at any time even before the expiry of period of allotment, if the same is required for the public purposes but sufficient time shall be given to the holder for collection of the agriculture products in it”

Section 4 (3) of the said Mizo District (Agricultural Land) Act, 1963 reads thus-

“4. (3) The Administrator of Mizoram may, by rules, impose such conditions as it may deem reasonable on all allotments of lands made under sub-section (1) of this section in the interest to general public or of Scheduled Tribe.”

It clearly indicates that after expiry of the validity of the Periodic Patta, no matter of rights of holder can be existed.

However, as argued by Mr. C. Lalramzauva, the instant issue is already adjudicated by the Hon'ble Gauhati High Court, Aizawl Bench in Writ Petition No. 4 of 1991 decided on 21-02-2000 which dealt the instant case, it was held that-

“6. There cannot be any manner of doubt that the petitioners are cultivating potatoes on the basis of the permits having been granted to them which have been annexed with the writ petition. After going through the averments made in the petition which have remain uncontroverted and which would be deemed to have been admitted in the absence of any written statement, this court would be perfectly justified in granting some relief to the petitioners that they would be entitled to remain in possession and grow potato crops till they are disturbed in their possession by following due process of law. The petitioners are claiming their right under permits. Even a trespasser cannot be evicted except by following due process of law and therefore we hold that the petitioners possession would remain protected till the passing of the order by following due process of law. These observations are being made because latest renewal permits are not forthcoming on judicial file. In other words, the authorities concerned would be entitled to proceed under the relevant provisions after affording the petitioners an opportunity of hearing.”

Thus, there can no be question on the validity of the passes/pattas of the plaintiffs for awarding decree as prayed in the instant suit.

Issue No. 3

Whether the Plaintiffs were illegally dispossessed of their lands by the Defendants. If so, for which period?

Current clarion issues on environmental protection is discussed in the case of **T.N. Godavarman Thirumulpad Vs. Union of India & Ors.** in connection with Writ Petition (civil) 202 of 1995 decided on 26/09/2005 and reported in 2005 AIR 4256, 2005 (3) Suppl.SCR 552, 2006 (1) SCC 1, 2005 (7) SCALE 562, 2005 (8) JT 588, the supreme Court has observed that-

“Forests are a vital component to sustain the life support system on the earth. Forests in India have been dwindling over the years for a number of reasons, one of it being the need to use forest area for development activities including economic development. Undoubtedly, in any nation development is also necessary but it has to be consistent with protection of environments and not at the cost of degradation of environments. Any programme, policy or vision for overall development has to evolve a systemic approach so as to balance

economic development and environmental protection. Both have to go hand in hand.

In ultimate analysis, economic development at the cost of degradation of environments and depletion of forest cover would not be long lasting. Such development would be counter productive. Therefore, there is an absolute need to take all precautionary measures when forest lands are sought to be directed for non forest use.”

The most powerful judicial court in this globe, viz. Supreme Court of India also constituted Forest Bench dealing the matters connected with our eco system by invoking judicial discretionary power or judicial governance/judicial activism which is overburdened on today to meet the global challenged.

In the ***International Scenario***, the well known ‘Copenhagen Accord’ is resolute in the Conference held on 7-18 December, 2009, Kyoto Protocol to the United Nations Framework Convention on Climate Change [Kyoto Protocol] was also reached in the year 1998. The United Nations Framework Convention on Climate Change was adopted in New York on 9 May 1992. ‘United Nations Conference on Environment and Development’ [Stockholm Conference] held at Rio De Janeiro, Brazil on June 3-14, 1992, Intergovernmental Panel on Climate Change was established in 1988 jointly by the World Meteorological Organization and the United Nations Environment Programme. Montreal Protocol on Substances that Deplete the Ozone Layer [Montreal Protocol] was also adopted in Montreal on 16 September 1987, ‘United Nations Conference on the Human Environment’ [Earth Summit] held at Stockholm, Sweden on June 5-16, 1972. Those were few milestones which this Planet had undergone amongst others to mitigate the ugly Ozone depletion, Green House Gases, Global/Local Warming etc. inviting a collective work in this high time.

In the ***Indian experience***, the legendary *Silent Valley Movement* [in respect of Silent Valley Hydro-Electric Project (SVHEP)] organized by the Kerala Sasthra Sahithya Parishad (KSSP) and *Chipko Movement* outburst on March 26, 1974, ‘*The Road to Copenhagen*’ dt. 27.2.2009 published by the Public Diplomacy Division, Ministry of External Affairs, Govt. of India were some amongst others.

The above holistic views is expected to enrich the horizon in the instant case to deal the crux prudently and cautiously witnessed that ecological balance and environmental protection is our common problems and very alarming task in the global, regional and municipal areas.

In the Mizoram context, by making enactments and promulgating rules, regulations etc. this isolated land lock hilly terrain also gearing up through the followings-

1. The Mizoram (Forest) Act, 1955
2. The Lushai Hills District (Jhumming) Regulation, 1954
3. The Mizoram Minor Minerals Concession Rules, 2000

4. Village Forest Development Committee (VFDC) Dt. 5th November, 2001 (For the first time)
5. Forest Development Agencies (FDA) Dt. 5th November, 2001 (For the first time)
6. The Mizoram (Prevention and Control of Fire in the Village Ram) Rules, 2001
7. The Mizoram Air (Prevention & Control of Pollution) Rules, 2002
8. The Mizoram Water (Prevention & Control of Pollution) Rules, 2002
9. Mizoram Sale of Produce Mahals Rules, 2002
10. Guidelines for Felling of Trees from Non- Forest Areas Dt. 8th February, 2002
11. Authority of D.F.O/D.C.F and above to evict any person from Govt. Reserve Forest etc. Dt. 18th January, 2007

In this zeal, by virtue of section 29E of the Mizoram Forest Act, 1955 (Act No. IV of 1955), the Governor of Mizoram authorized all Forest Officers not below the rank of DFO/DCF under Environment & Forest Department, Govt. of Mizoram to evict any person from a Government Reserve Forest and also to sell, confiscate or destroy any crop raised or any building or other construction erected by such person without authority with immediate effect, unless such person has been lawfully authorized to settle in such Government Reserve Forest since a time prior to the date of commencement of the Forest (Conservation) Act, 1980 or allowed to remain in possession of such land under any order of a competent court of law as notified under No. D. 12012/5/'94-FST, the 18th January, 2007 (Vide, the Mizoram Gazette, Extra Ordinary; Vol. XXXVI, 02-02-2007, Issue No. 12].

In the other side/regime, In **Narmada Bachao Andolan v. Union of India and Ors.**, [2000] 10 SCC 664 disposed of the said writ petition upon issuing various directions. The court inter alia opined that:

- “(i) displacement of the tribals and other persons would not per se result in violation of their fundamental or other rights;
- (ii) on their rehabilitation at new locations they would be better off than what they were;
- (iii) at the rehabilitation sites they will have more and better amenities than those they enjoyed in their tribal hamlets; and
- (iv) the gradual assimilation in the mainstream of the society would lead to betterment and progress.”

In the case of **Rural Litigation & Entitlement Kendra vs State Of U.P** decided on 30 August, 1988 reported in 1989 AIR 594, 1989 SCC Supl. (1) 537, it was held that-

“The problem of forest preservation and protection was no more to be separated from the life style of tribals. The approach required a shift from the dependence on law and executive implementation to dependence on the conscious and voluntary participation of the masses. This required educating the masses as well as appropriate education of the departmental employees.

... There was some controversy as to whether some of the mines were located in the reserved forests. We have not made any attempt to resolve that controversy here as, in our opinion, whether the mines are within the reserved forests or, in other forest area, the provisions of the Conservation Act apply.

... There is no dispute that continuance of mining operations affects environment and ecology adversely and at the same time creates a prejudicial situation against conservation of forests. It is, therefore, necessary that each of these working mines shall have to work with an undertaking given to the Monitoring Committee that all care and attention shall be bestowed to preserve ecological and environmental balance while carrying on mining operations.

... Indisputably displacement has been suffered by these lessees and the sudden displacement must have up-set their activities and brought about substantial inconvenience to them. The Court has no other option but to close down the mining activity in the broad interests of the community. This, however, does not mean that the displaced mine owners should not be provided with alternative occupation. Pious observation or even a direction in that regard may not be adequate, what is necessary is a time frame functioning if rehabilitation is to be made effective. It is therefore, necessary that a Committee should be set up to over-see the rehabilitation of the displaced mine owners.”

As the above were the legal position of the suit, it is now impel to turn into the entity of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (hereinafter referred to as 'Forest Rights Act') (Act No. 2 of 2007) Dt. 29th December, 2006 is published in the Gazette of India, Extra Ordinary; Part II-Section 1, No. 2, January 2, 2007/PAUSA 12, 1928 and 31st December, 2007 is appointed as the date of the provision of the Act shall come into force under Notification No. S.O. 2224 (E) New Delhi, the 31st December, 2007 Vide, the Gazette of India, Extra Ordinary; Part- II-Section 3-Sub-section (ii). No. 1614 December 31, 2007/PAUSA 10, 1929. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007 is also again chalked out. In Mizoram perspective, consequent upon the Official Resolution passed by the Mizoram Legislative Assembly in its session held on 29th October, 2009 as required under Article 371 G of the Constitution of India, the Government of Mizoram has been appointed 31-12-2009 as the date on which the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and its Rules of 2007 came into force in the state of Mizoram as notified under No. A. 14014/35/09- SWD, the 3rd March, 2010 (Vide, the Mizoram Gazette, Extra Ordinary, Vol. XXXIX, Dated 09-03-2010 Issue No. 66). Clause (c) of section 2 of the said Act defines 'Forest dwelling Scheduled Tribes' that-

“(c) "forest dwelling Scheduled Tribes" means the members or community of the Scheduled Tribes who primarily reside in and

who depend on the forests or forest lands for bona fide livelihood needs and includes the Scheduled Tribe pastoralist communities;”

Construing sub-section (3) of section 4 of the Forest Rights Act, it reads that-

“(3) The recognition and vesting of forest rights under this Act to the forest dwelling Scheduled Tribes and to other traditional forest dwellers in relation to any State or Union territory in respect of forest land and their habitat shall be subject to the condition that such Scheduled Tribes or tribal communities or other traditional forest dwellers had occupied forest land before the 13th day of December, 2005”

Cogently, the enactment of Forest Rights Act is neither meant to degradation of environment nor to devastate forest and its ecology but merely consolidated the simple traditional means of livelihood and lifestyle of forest dwellers and preservation of forests where no other alternative mode is available in the over population of the country.

Although the law is very clear as stated above, merit of the case is already settled in the judgment & order passed by the Hon’ble Gauhati High Court, Aizawl Bench in Writ Petition No. 4 of 1991 on 21-02-2000 which directed the plaintiffs to approach the civil court saying that

“.... The grant of compensation would depend upon the petitioners proving certain facts which cannot be done in writ jurisdiction. The petitioners, according to their best case before us, are cultivating the land since 1991 when they came to this court. If there was still any disturbance in their possession prior to there-to they should have approached either civil court or some other appropriate forum. If any such remedy is available even now, the petitioners may avail of the same. In writ jurisdiction it is difficult for us to assess any amount particularly when no figure has been averred in the petition.”,

Therefore, the instant suit is filed with locus standi and the period for which alleged sterile for cultivation of potatoes is also beyond the scrutiny in the instant court.

Issue No. 4

Whether the Plaintiffs had incurred any loss of income/ prospective earning due to the action of the Defendants.

As evidence clearly elicited that the plaintiffs had resumed to cultivate potatoes as soon as adjudication of the case by the Hon’ble Gauhati High Court as stated above with effect from 2000. Admittedly, the said suit was pending from 1991 to 2000. It caused the plaintiffs from cultivating

potatoes in the suit land. It impels me to decide the instant issue in favour of the plaintiffs.

Issue No. 5

Whether the Plaintiffs are encroachers within Hrangtur Reserved Forest and whether they have any rights within the said Hrangtur Reserved Forest area.

This issue is already discussed and settled under issue no. 3 of the above in tune with the provisions of the Forest (Conservation) Act, 1980 and will be needless to elaborate further.

Issue No. 6

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

Hon'ble Supreme Court in **Bachhaj Nahar vs. Nilima Mandal and Anr** (2008) 17 SCC 491 has already settled the mode for granting of relief. It is relevant to extract the principles enunciated in para 23 of the said judgment which is 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."

Undisputedly, land classified as highly and moderately suitable can sustain production of good quality ware potatoes in arable rotation. As potatoes are shallow-rooting and unable to exploit soil water from below about 0.7 m depth, droughtiness is often the main limitation to crop yield. On well-drained soils the crop responds economically to irrigation, and allowance is made in the suitability assessment for upgrading easily worked but droughty land where irrigation is available. The topography and climatic conditions like sub-tropical climatic region of the suit land, pregnant with calcium citrus will be suited for growing potatoes.

I must look and examine the entitlement and extent of relief accurately on the basis of the relief sought in the plaint as follows-

(i). For a decree declaring that the Plaintiffs had been illegally dispossessed by the Defendants for a period of 10 years (from 1991 to 2000) consequent upon which the Plaintiffs are deprived of their means of livelihood.

In this catena, as per the findings under issue no. 3, concrete conclusive adjudication can not be held. Pertinently, it is immaterial as found out under the said issue no. 3

(ii). For a decree declaring that the Plaintiffs are entitled to payment of a total compensation amounting to Rs.1,88,40,000/- (Rupees one crore eighty eight lakhs forty thousand) only with pendente lite interest at a rate of 15% p.a. and to get their own share of compensation in respect of damage due to their illegal dispossession for a period of ten (10) years i.e. from 1991 to 2000 as shown in schedule 'A' of ANNEXURE-52 against their names.

In the instant main crux, more accuracy and reliability may be sought that as deposed by PWs and no other reasons and findings can be had with a view to the suitability of the land as stated above, in one bigha, two quintals of potatoes could be justified to product in a year. The rate at Rs. 1000/- per quintal is also reasonable and acceptable. As per the findings, the number of years affected for cultivation would be ten years. The quantum of compensation/relief to be paid to the plaintiffs is therefore assessed and tabulated as below-

TABULATION OF QUANTUM OF COMPENSATION

Sl. No.	Name of the plaintiffs	Area in bigha of their suit land	Qty. cultivated annually (In Quintals)	Qty. produced in a year (In Quintals)	Potatoes loss in ten years [In quintals]	Total amount of relief entitled [Total loss in 10 years (In Rupees)]
1	C. Sangkhuma	3	6	36	360	3,60,000/-
2	Saichhunga	3	6	36	360	3,60,000/-
3	Thangchhunga	1	2	12	120	1,20,000/-
4	Thangkhuma	5	10	60	600	6,50,000/-
5	Manliana	9	18	108	1080	10,80,000/-
6	Lalchhawna	3	6	36	360	3,60,000/-
7	K. Sena	4 ½	9	54	540	5,40,000/-
8	Lalthara	2	4	24	240	2,40,000/-
9	Puia Ralte	5	10	60	60	6,00,000/-
10	L. Ramliana	3	6	36	360	3,60,000/-
11	Vaitawna	1	2	12	120	1,20,000/-
12	Thanthuami	6	12	72	720	7,20,000/-
13	Lianzuala	4	8	48	480	4,80,000/-
14	Withdrawn by himself					
15	K. Vawmkaia	3	6	36	360	3,60,000/-
16	Remtluanga	2 ½	5	30	300	3,00,000/-
17	R. Satinhela	3	6	36	360	3,60,000/-
18	J. Chalhlira	3	6	36	360	3,60,000/-
19	C. Saipianga	3	6	36	360	3,60,000/-
20	Thangkima	1	2	12	120	1,20,000/-
21	Chhuhhleia	3	6	36	360	3,60,000/-
22	F. Rokunga	3	6	36	360	3,60,000/-
23	Hrangngura	3	6	36	360	3,60,000/-
24	Kapzauva	1	2	12	120	1,20,000/-

25	Zothangvunga	3	6	36	360	3,60,000/-
26	Lalngghaka	4	8	48	480	4,80,000/-
27	Lahluna	4	8	48	480	4,80,000/-
28	Denghmingthanga	9	18	108	1080	10,80,000/-
29	Rothangvunga	3	6	36	360	3,60,000/-
30	K. Hrangbuka	3	6	36	360	3,60,000/-
31	Saibaka	3	6	36	360	3,60,000/-
32	Lalsanga	4	8	48	480	4,80,000/-
33	Kapzawni	3	6	36	360	3,60,000/-
34	S. Lalbiakvela	3 ½	7	42	420	4,20,000/-
35	Siamthanga	4	8	48	480	4,80,000/-
36	R.L. Buatsaiha	4	8	48	480	4,80,000/-
37	Robuangi	2	4	24	240	2,40,000/-
38	Sapzingi	2	4	24	240	2,40,000/-
39	Thangthuama	3	6	36	360	3,60,000/-
40	Aihnuna	3	6	36	360	3,60,000/-
41	Zasangi	3	6	36	360	3,60,000/-
42	Tlanglawma	3	6	36	360	3,60,000/-
43	Hrangduna	6	12	72	720	7,20,000/-
44	LAD, UPC	2 ½	5	30	300	3,00,000/-
45	Presby. (Women)	2	4	24	240	2,40,000/-
46	Lalthansanga	3	6	36	360	3,60,000/-
47	Lalhminga	3	6	36	360	3,60,000/-
					Total	Rs. 1,86,50,000/-

The total amount thereof is Rs. 1,86,50,000/- (Rupees one crore, eighty six lakhs and fifty thousand)

More so, I find that pendente lite interest rate at 9% per annum with effect from 12-06-2003 when institution of the suit till realization will also be entitled by the plaintiffs out of their respective relief amount.

(iii) *For cost of the suit.*

In this task, due to peculiarities of the case like subject to eviction of the plaintiffs with due process of law, I find that no costs will be appropriated

(iv) *For any other relief (s) as may be deemed fit and proper by this Court.*

I find no other relief except as above which is accurately submitted in the plaint.

ORDER

On meticulously examining the above findings and UPON hearing of both parties, it is hereby ORDERED and DECREED that the defendants nos. 1-4 are directed to pay relief mentioned/tabulated below to the plaintiffs with pendente lite interest rate at 9% per annum with effect from 12-06-2003 when institution of the suit till realization within three months (90 days) from the date of this order.

TABULATION OF QUANTUM OF COMPENSATION

Sl. No.	Name of the plaintiffs	Area in bigha of	Qty. cultivated annually (In	Qty. produced in a year (In Quintals)	Potatoes loss in ten years [In quintals]	Total amount of relief entitled [Total loss in
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		their suit land	Quintals)			10 years (In Rupees)]
1	C. Sangkhuma	3	6	36	360	3,60,000/-
2	Saichhunga	3	6	36	360	3,60,000/-
3	Thangchhunga	1	2	12	120	1,20,000/-
4	Thangkhuma	5	10	60	600	6,50,000/-
5	Manliana	9	18	108	1080	10,80,000/-
6	Lalchhawna	3	6	36	360	3,60,000/-
7	K. Sena	4 ½	9	54	540	5,40,000/-
8	Lalthara	2	4	24	240	2,40,000/-
9	Puia Ralte	5	10	60	60	6,00,000/-
10	L. Ramliana	3	6	36	360	3,60,000/-
11	Vaitawna	1	2	12	120	1,20,000/-
12	Thanthuami	6	12	72	720	7,20,000/-
13	Lianzuala	4	8	48	480	4,80,000/-
14	Withdrawn by himself					
15	K. Vawmkaia	3	6	36	360	3,60,000/-
16	Remtluanga	2 ½	5	30	300	3,00,000/-
17	R. Satinhela	3	6	36	360	3,60,000/-
18	J. Chalhira	3	6	36	360	3,60,000/-
19	C. Saipianga	3	6	36	360	3,60,000/-
20	Thangkima	1	2	12	120	1,20,000/-
21	Chhunnhleia	3	6	36	360	3,60,000/-
22	F. Rokunga	3	6	36	360	3,60,000/-
23	Hrangngura	3	6	36	360	3,60,000/-
24	Kapzauva	1	2	12	120	1,20,000/-
25	Zothangvunga	3	6	36	360	3,60,000/-
26	Lalnghaka	4	8	48	480	4,80,000/-
27	Lahluna	4	8	48	480	4,80,000/-
28	Denghmingthanga	9	18	108	1080	10,80,000/-
29	Rothangvunga	3	6	36	360	3,60,000/-
30	K. Hrangbuka	3	6	36	360	3,60,000/-
31	Saibaka	3	6	36	360	3,60,000/-
32	Lalsanga	4	8	48	480	4,80,000/-
33	Kapzawni	3	6	36	360	3,60,000/-
34	S. Lalbiakvela	3 ½	7	42	420	4,20,000/-
35	Siamthanga	4	8	48	480	4,80,000/-
36	R.L. Buatsaiha	4	8	48	480	4,80,000/-
37	Robuangi	2	4	24	240	2,40,000/-
38	Sapzingi	2	4	24	240	2,40,000/-
39	Thangthuama	3	6	36	360	3,60,000/-
40	Aihnuna	3	6	36	360	3,60,000/-
41	Zasangi	3	6	36	360	3,60,000/-
42	Tlanglawma	3	6	36	360	3,60,000/-
43	Hrangduna	6	12	72	720	7,20,000/-
44	LAD, UPC	2 ½	5	30	300	3,00,000/-
45	Presby. (Women)	2	4	24	240	2,40,000/-
46	Lalthansanga	3	6	36	360	3,60,000/-
47	Lalhminga	3	6	36	360	3,60,000/-
					Total	Rs. 1,86,50,000/-

The total amount thereof is Rs. 1,86,50,000/- (Rupees one crore, eighty six lakhs and fifty thousand)

No order as to costs of the suit.

The case shall stand disposed of accordingly.

Give this copy to all concerned.

Given under my hand and seal of this court on this 9th Nov., 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/1/2003, Sr. CJ (A)/

Dated Aizawl, the 9th Nov., 2011

Copy to:

1. Mr. S. Lalbiakvela S/o Saichhuma & Ors., North Vanlaiphai, Serchhip District through Mr. C. Lalramzauva, Senior Advocate
2. The state of Mizoram Represented by the Chief Secretary to the Government of Mizoram through Mr. B. Lalramenga, Adv.
3. The Principal Chief Conservator of Forests, Govt. of Mizoram through Mr. B. Lalramenga, Adv.
4. The Divisional Forest Officer, North Vanlaiphai Forest Division, North Vanlaiphai, Serchhip District through Mr. B. Lalramenga, Adv.
5. The Range Officer, Office of the Divisional Forest Officer, North Vanlaiphai Forest Division, North Vanlaiphai, Serchhip District through Mr. B. Lalramenga, Adv.
6. The Director, Land Revenue and Settlement Department, Govt. of Mizoram through Mr. R. Lalremruata, AGA
7. P.A. to Hon'ble District & Sessions Judge, Aizawl Judicial District: Aizawl
8. Case Record

PESKAR