

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

TITLE SUIT NO. 02 OF 2006

Plaintiff:

Smt. Lalmangaihchhungi
W/o Kaptluanga (L)
Armed Veng South, Aizawl

By Advocates

: 1. Mr. W. Sam Joseph
2. Mr. Zochhuana
3. Mr. Hranghmingthanga
4. Mr. F. Lalengliana
5. Mr. Francis Vanlalzuala

Versus

Defendants:

1. The State of Mizoram
Through the Chief Secretary to
the Govt. of Mizoram, Aizawl.
2. The Secretary to the Govt. of
Mizoram, Land Revenue &
Settlement Department Aizawl
Mizoram.
3. The Director,
Land Revenue & Settlement,
Aizawl, Mizoram.
4. The Joint Director of Survey
Land Revenue & Settlement,
Aizawl, Mizoram.
5. The Asst. Director of Survey (T)
Land Revenue & Settlement,
Aizawl, Mizoram.
6. Mr. Lalsiamkima
S/o Bualtawna
Republic Veng, Aizawl
7. The Assistant Settlement
Officer-I, Land Revenue &
Settlement Department
Aizawl District: Aizawl

By Advocates for Nos. 1-5 & 7

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

By Advocates for No. 6

: Miss Linda L. Fambawl

Proforma defendant:

The President
Village Council
Armed Veng South, Aizawl

By Advocates

:

Date of Arguments : 25-10-2011

Date of Judgment & Order : 31-10-2011

BEFORE

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

JUDGMENT & ORDER

BRIEF STORY OF THE CASE

The plaintiff has possessed a plot of land under LSC No.104104/01/333 of 2005 with an area of 175.95 Sq. m which superseded House Pass No. 372/2005 and with previous approval of the Government of Mizoram under S-11011/E/05/LSC-DTE (REV)/L-626 dt 23.9.05 and its specific location as per the facet of the LSC is “*Armed Veng South jeep road to Bethlehem Veng hrul Roliana leh kawrte inkar mirawng luikam hmarchhak*”. Meanwhile, the defendants 1-5 and 7 issued another LSC under LSC No.104104/01/33 of dt 2006 in favour of the defendant no. 6. with an area of 350.62 Sq. m which superseded House Pass No. 951 of 2005 and was issued with the prior approval of the Government of Mizoram under letter No. S-11011/E/05/LSC-DTE (REV)/L-920 dt 16.12.05 with mentioning a specific location that “*Armed Veng South a jeepable leh mirawng lui inkar, Lalrini ram bul*”. In the physical sense, the said two LSCs were issued over to the same and similar landed/geo areas. The Plaintiff therefore prayed that (i) Let a decree be passed declaring and confirming that the plaintiff has the right, title over the land covered under LSC No.104104/01/333 of 2005. (ii) Let a decree be passed declaring that the LSC issued in favour of the defendant no.6 vide LSC no. 104104/01/33 of 2006 by the Revenue department is null and void *ab initio* and the same be cancelled. (iii) Let a decree be passed declaring that the plaintiff is entitled to possession of the said land covered under LSC No.104104/01/333 of 2005 and the plaintiff be given vacant possession of the said land. (iv) Let a decree be passed declaring that the defendant nos. 6 has no right to interfere with the peaceful possession of the land by the plaintiff. (v) Let a decree be passed declaring that the order dated 24th March 2006 and the chit issued by the defendant no.4 to the proforma defendant are illegal, arbitrary and without any basis and the same be quashed/set aside. (vi) By way of permanent injunction the defendants 1 to 5 and 7 be restrained from giving effect to the said LSC No.104104/01/33 of 2006. (vii) By way of permanent injunction the defendants 6 and all other defendants be restrained from putting up any construction or structure within the land covered under LSC No.104104/01/333 of 2005. (viii) Let the cost of the suit be decreed in favour of the plaintiff against the defendants. (ix) Let any other relief to which the plaintiff is entitled according to Justice, Equity and

Good Conscience be decreed in favour of the plaintiff. A requisite court fees at Rs. 5000/- is also paid by the plaintiff.

On the other hand, written statement was submitted on behalf of defendant nos.1 to 5 by the Under Secretary to Govt. of Mizoram and denied the averments made in the plaint and stated that there is no cause of action, the suit is barred by limitation, bad for non-joinder of necessary party and proper party and mis-joinder of parties and cause of action. By denying the averments in para 3 of the plaint the said defendants stated that they had detailed surveyors to conduct spot verification of the suit land and as per the report of the Surveyors it is found that the House Pass of Defendant no.7 lies between the northern side of culvert and Pu Lalrina's land while the plaintiff's land lies between the southern side of culvert and Pu Tlankima's land. In fact, the report of the surveyor along with connected papers were forwarded to the Assistant Director, LR & S Department by the Defendant no.5 for further necessary action on 6th April 2006. Since the instant suit was already been instituted by the plaintiff, no action could be taken by the concerned authority in this connection. In reply to the paragraph 5 of the plaint the defendants stated that the LSC of the defendant no.6 was issued in supersession of his House Pass No.951 of 2005 after observing all codal formalities and prayed the court to dismiss the suit with exemplary costs.

The defendant no.6 submitted written statement and denied the averments made in the plaint. He also submitted the suit cannot be maintained in present form and style, barred by limitation, estoppel, waiver and acquiescence and bad for mis-joinder/non-joinder of necessary parties, there is no cause of action in favour of the plaintiff and against the defendant no.6 and the plaintiff has no locus standi to file the present suit etc. By denying the averments made in the para 3 of the plaint, the defendant no.6 submitted that he had been developing his land covered by House Pass No.951 of 2005 dated 26.7.2005 ever since his allotment. Pursuant to the terms and conditions No.1 of issue of House Pass no.951 of 2005 dated 26.07.2005, the answering defendant begun construction of the house building since August 2005 and there was no objection from any quarter. The concerned Revenue Authorities, being satisfied with the fulfillment of the said condition No.1, were pleased to settle the House Pass No.951 of 2005 dated 26.7.2005 by issuing LSC No.104104/01/338 of 2006 dated 27.01.2006 in supersession of the said House Pass no.951 of 2005 dated 26.7.2005. However, the plaintiff in collusion with the proforma defendant had sometime in the end of March 2005 restrained the answering defendant from continuing to construct his building by means of force. The building construction was in its final stage and is about to be completed by this time when he was restricted from proceeding with the construction. He had already spent about Rs.1,50,000/- so far for the construction. There is no infirmity or irregularity in conversion of the House Pass No.951 of 2005 dated 26.7.2005 of the answering defendant into LSC No. 104104/01/338 of 2006 dated 27.01.2006 as it was done after proper verification. The area covered by House Pass No.951 of 2005 dated 26.7.2005 is same as that of the area covered by LSC No. 104104/01/338 of 2006 dated 27.01.2006. The claim of ownership of the land in question by the plaintiff is illegal as his LSC no. 104104/01/333 of 2005 dated 5.12.2005 is void *ab initio*. The answering defendant further submitted that there is no illegality or impropriety about the letter dated 19.3.2006 written by the defendant no.4 as a Stay order can only be passed by competent Revenue Authorities. The Revenue authorities detailed Shri P.C. Sanghnuna to verify the dispute on the spot vide Order dated 24.3.2006. The surveyor accordingly verified the disputed side and

submitted his report dated 3.4.2006 that he came to the findings that the portion of the land covered by House Pass No.951 of 2005 dated 26.7.05 of the defendant no.6 is same as the portion of the land covered by his LSC No.104104/01/338 of 2006 dated 27.1.2006. The said Surveyor also made his observation that the dispute between the plaintiff and the defendant no.6 is not that of a boundary dispute but that of overlapping of the land of the defendant no.6 by LSC No.104104/01/333 of 2005 dated 5.12.2005. Under such circumstances, it is apparent the land covered by LSC No. No.104104/01/333 of 2005 dated 5.12.2005 of Mr. C. Kaptluanga was not issued in supersession/settlement of the land covered by House Pass No.372 of 2005 dated 19.4.2005. It was rather wrongly issued in respect of a land which was not vacant but already allotted to the defendant no.6 vide house pass no.951 of 2005 dated 26.7.2005 which had already been settled converted into LSC No. No.104104/01/338 of 2006 in supersession of the said House Pass. He prayed the court to dismiss the suit as it is misconceived and devoid of merit.

The proforma defendant simply submitted written statement that on 22.3.2006, the plaintiff preferred a complaint to the Village Council, Armed Veng 'S' stating that in the suit land the defendant no. 6 had constructed a building. We requested the said defendant no. 6 to stay the said construction towards peace and tranquility. The Village Council thereby forthwith held a sitting and found that the Revenue Authorities issued LSCs in favour of the plaintiff and the defendant no. 6 in the same plot of land. As instructed by Mr. S. Rolianthanga, the then Jt. Director of Revenue Department, they stopped interference in the dispute.

ISSUES

The following issues were framed on 30-08-2007 and was amended such as-

1. Whether the suit is maintainable in its present form and style.
2. Whether the suit is barred by limitation, estoppel and acquiescence.
3. Whether the suit is bad for mis-joinder/non-joinder of necessary parties.
4. Whether there is any cause of action against the defendants.
5. Whether the plaintiff has *locus standi* to file the present suit.
6. Whether the issue of House Pass no. 372 of 2005 dated 19.4.05 and its subsequent conversion into LSC no. 104104/01/333 of 2005 dated 05.12.05 is illegal, void and invalid in view of the fact that the allottee C. Kaptluanga died on 27.11.04.
7. Whether the House Pass No. 372 of 2005 dated 19.4.05 of Shri C. Kaptluanga covers the same plot of land with that of House Pass No. 951 of 2005 dated 26.07.2005 of Shri. C. Lalsiamkima.
8. Whether the plot of land covered by House Pass No. 372 of 2005 dated 19.04.05 of C. Kaptluanga is the same plot of land covered by LSC No. 104104/01/333 of 2005 dated 5.12.05.
9. Whether the plot of land covered by LSC No. 104104/01/333 of 2005 dated 05.12.2005 overlapped the land of the defendant No.6 under House Pass no. 951 of 2005 dated 26.07.05 and subsequently superseded by LSC No. 104104/01/33 of 2006 dated 27.01.06. If so, whether the LSC No. 104104/01/333 of 2005 dated 05.12.05 is liable to be cancelled.
10. Whether the plaintiff is entitled to the relief claimed, if so to what extent.

BRIEF ACCOUNT OF EVIDENCE

The plaintiff had produced the following witnesses namely-

1. Smt. Lalhmangaihchhungi W/o Kaptluanga (L), Armed Veng South, Aizawl (Hereinafter referred to as PW-1)
2. Mr. C. Vanlalrivunga S/o Thathuana, Chhing Veng, Aizawl (Hereinafter referred to as PW-2)
3. Mr. P.V. Vanlalaauva S/o Chanbuaia, Armed Veng South, Aizawl (Hereinafter referred to as PW-3)
4. Mr. R. Unionthanga S/o Kapthuama, Armed Veng, Aizawl (Hereinafter referred to as PW-4)

The **PW-1** in her examination in chief deposed that the plaintiff's husband Pu Kaptluanga (L), s/o.Thathuana applied for allotment of a plot of land situated at Armed Veng South located at Armed Veng South jeep road to Bethlehem Veng hrul Roliana leh kawrte inkar mirawng luikam hmarchhak to the Revenue department in the year 2004. In pursuance of the application submitted by the plaintiff's husband, the revenue authorities detailed surveyor on 17.11.2004 for verification. After due verification by the concerned surveyor and as the revenue department found that the land applied for was a vacant land, after observing all the formalities the said plot of land was allotted in the name of the plaintiff's husband vide House Pass No.372 of 2005 in the month of April 2005. Before the said House Pass was issued, the Government of Mizoram had authorized the issuance of the said Pass vide order No.K.52012/16/99-REV dated 21.3.2005. After the said House pass was issued the Revenue authorities detailed Surveyor Pu C. Lalkohbika to see the land and to place the boundary pillars etc. Unfortunately the plaintiff's husband died before the House Pass was actually issued. Thereafter, the Revenue authorities issued the Land Settlement Certificate no.104104/01/333 of 2005 on 5.12.2005 by superceding the House Pass No.372 of 2005 in the name of the plaintiff's husband Kaptluanga. The plaintiff obtained heirship certificate from the Subordinate District Council Court on 26th March 2006. As per the said heirship certificate no.155 of 2006, the plaintiff was declared as legal heir or the deceased Kaptluanga in respect of the LSC No.104104/01/333 of 2005. Before the said LSC was issued the defendant no.3 had given his approval to the District office to issue the said LSC vide his letter no.S-11011/E/05/LSC-DTE(REV)/L-626 dt 23.9.05. Along with the LSC, the sketch map, boundary description, Land Valuation Certificate, Non-encumbrance Certificate and the No objection certificates were also issued. As per the Non-encumbrance certificate issued along with the said LSC clearly mentioned that the said land was free from encumbrances as far as the records maintained in the Land Revenue and Settlement department, Govt. of Mizoram. When the LSC was issued, the Revenue authorities had taken the House Pass no.372 of 2005 and the same was detained by them. On 19th March 2006 when the plaintiff was proceeding towards the church noticed some structures were being put up within the land covered under LSC No.104104/01/333 of 2005. When the plaintiff enquired, she was told that the defendant no.6 is constructing a building within the said land. Immediately on the 20th March the plaintiff told the proforma defendant (VCP) that the defendant no.6 is putting up structures within the land covered under LSC No.104104/01/333 of 2005. The proforma defendant in turn requested the defendant no.6 not to make any structure or construction within the land covered under LSC No.104104/01/333 of 2005. But the defendant no.6 continued with the

construction, hence the plaintiff approached the District Revenue authorities and informed that the defendant no.6 is constructing/putting up structures within the said land covered under LSC No.104104/01/333 of 2005. Meanwhile the proforma defendant also reported the matter to the District Revenue authorities. In pursuance of the report of the proforma defendant the defendant no.7 detailed a surveyor for verification and in the same order the defendant no.6 was directed not to continue with the construction. As per the said order the surveyor is to conduct his verification on the 5th of April 2005. Meanwhile the defendant no.6 had approached the defendant no.4 and at the instance of the defendant no.4, the defendant no.5 had issued an order detailing another surveyor for verification and in the same order the defendant no.6 was requested to keep the iron angle post ready at the spot on 27.3.2006. From the said order the plaintiff came to know that the defendant no.6 was in possession of the LSC NO.104104/01/33 of 2006. Instead of verifying the dispute the defendant no.4 and 5 were trying to regularize the LSC referred in the said order. In fact, the said LSC in favour of the defendant no.6 was issued after the LSC No.104104/01/333 of 2005 was issued in the name of the plaintiff's husband. It appears the defendant no.4 and 5 are intending to help the defendant no.6 illegally without any authority. Before the date for verification of the dispute could pass, the defendant no.4 sent a chit to the proforma defendant on 29th March stating that "C.Lalsiamkima, s/o. Bualtawna Armed Veng South a Inhmun LSC No.104104/01/33 of dt 2006 hi sarkawin a pek a ni a. In sak lai hi Sorkarin Stay Order a pe a nih loh chuan tumahin lo ti buai lo tura ngen leh hriat tir i ni e." After the said chit was sent by the defendant no.6 continued with the construction without giving any heed to the stay order issued by the defendant no.7. When the plaintiff approached the defendant no.7 informed the action taken by the defendant no.4 and 5, the defendant no.7 informed the plaintiff that since the matter was taken up by the Joint Director of Survey, they will not interfere. Hence the plaintiff has not other option but to approach the court. If the plaintiff does not come to court the defendant no.6 will complete construction in collusion with the defendants nos. 4 and 5. In fact the proforma defendant also stated clearly that the land in which the defendant no.6 was construction a building was already allotted in the name of the plaintiff's husband and the LSC was issued in the name of the plaintiff's husband before the LSC was issued in favour of the defendant no.6. The proforma defendant even told the defendant no.6 not to continue with the construction. Further, the defendant no.6 had not taken any permission or instruction from the proforma defendant before putting up structure within the said land. The action of the defendants nos. 4 to 5 in initiating parallel proceedings regarding the dispute when the matter was already initiated by the defendant no.7 is illegal,arbitrary and biased. As far as the plaintiff knows, it is not the duty of the Survey branch to entertain the dispute regarding the Land. From the unofficial chit issued by the defendant no.4 addressed to the proforma defendant it appears that he has some vested interest in favour of the defendant no.6. Issuance of the LSC in favour of the defendant no.6 over the land allotted in the name of the Plaintiff's husband is illegal and the house pass and the LSC issued in the name of the plaintiff's husband was earlier in time than that of the defendant no.6. It appears that the defendant no.6 is continuing with the construction due to the action of the defendants nos. 4 and 5. By virtue of the Heirship Certificate no.155 of 2006 issued by the competent court in favour of the plaintiff gives the right to inherit the said LSC No.104104/01/333 of 2005 in the name of the plaintiff's husband. The plaintiff is the owner of the said land. In this connection it would not be out of place to mention that the plaintiff's husband was serving in police and he died due to accident. The cause of action for the suit arose when the defendants 1 to 5 & 7 issued

House pass and LSC in favour of the defendant no.6 over the land settled under LSC no No.104104/01/333 of 2005 in the name the plaintiff's husband and when the defendant no.6 started construction of the building within the land of the plaintiff and it continues till the defendant no.1 to 5 and 7 set aside/ cancel the LSC NO.104104/01/33 of 2006 and the plaintiff is put to possession of the land without interference from any one including the defendant no.6. The plaintiff could not serve notice under S.80 CPC due to the urgency of the matter. If the notice is served and if the plaintiff waits for another two months as required by the Civil Procedure Code, the defendant Nos. 6 would complete construction of the building and irreparable injury will be caused to the plaintiff. An application for leave of the court for bringing a suit without serving notice under S.80 of C.P. Code is also filed and was granted accordingly. Hence, the case, she further deposed that-

Ext P-1 is a copy of the letter dated 11.10.2004 detailing surveyor for verification of the House Site application.

Ext P-2 is a copy of letter dated 25.05.05 detailing the surveyor for putting the boundary pillar etc on their house site.

Ext P-3 is a copy of LSC, the sketch map, boundary description, Land Valuation Certificate, NOC and Non- encumbrance Certificate.

Ext P-4 is her Heirship Certificate.

Ext P-5 is detailment order issued by ASO-I, LR & S, Aizawl District, Aizawl dated 21st March 2006.

Ext P-6 is order dated 24.3.06 passed by Assistant Director of Survey(T), LR& S, Mizoram.

Ext P-7 is a letter issued by Defendant No. 4, Director (Survey), LR S, Aizawl dated 29.3.09

Ext. P. no.3 was objected by the counsel for the defendant no.6.

In her cross examination, she deposed that after deceased of her husband namely Mr. C. Kaptluanga, she applied for conversion of House Pass No. 372 of 2005 into her name. She did not know that whether the area covered by House Pass No. 372 of 2005 and the area covered under LSC No.104104/01/333 of 2005 is the same or not. When Mr. P.C. Sanghnuna had conducted, she present on the spot. She had obtained Heirship Certificate over to the suit land on 29th March, 2006. His late husband and herself fails to construct a building in the suit land.

In her re examination, she deposed that so far as her knowledge concerned, the area covered by House Pass No. 372 of 2005 and the area covered under LSC No.104104/01/333 of 2005 is similar although boundary description is different.

The **PW-2** in his examination in chief deposed that he is familiar with the family of the plaintiff and knows the LSC issued in favour of the plaintiff. On 19th March, 2006, the plaintiff noticed that some other person had constructed a building in the suit land. He helped the plaintiff to make a complaint to the Revenue authorities in regards to the said construction of building. The defendant no. 4 also sent a chit to the proforma defendant not to obstruct the building construction of defendant no. 6 without the stay order of the Government.

In his cross examination, he deposed that his elder Mr. C. Kaptluanga was died on 27.11.2004 and issued the House Pass No. 372 of 2005 on 19.4.2005 in the name of Mr. C. Kaptluanga. He was also present on the spot when Mr. P.C. Sanghnuna, Surveyor had conducted survey on the spot.

The **PW-3** in his examination in chief deposed that he was the VCP of Armed Veng 'S' during 2004 to 2006 and well acquainted with the instant disputes. As applied by the late husband of the plaintiff, House Pass No. 372 of 2005 was issued as the Village Council signed No Objection Certificate and the neighbouring land holders also put their signatures on No Objection Certificate. As duly conducted verification by Mr. Lalkohbika, Surveyor, the said land was converted into LSC. In his knowledge, the LSC of the defendant no. 6 was wrongly issued in the suit land.

In his cross examination, he admitted that the boundary mentioned in House Pass No. 372 of 2005 issued in favour of Mr. C. Kaptluanga and the boundary described in LSC No.104104/01/333 of 2005 is not the same. He did not have any knowledge on the landed properties of the defendant no. 6.

The **PW-4** in his examination in chief deposed that he was the Secretary of Village Council of Armed Veng 'S' during 2006 to 2008 and well acquainted with the instant disputes. As noticed by the plaintiff that the defendant no. 6 had constructed a building in the suit land on 19th March, 2006, a written report was made before them and requested the defendant no. 6 to stop the on-going construction but he continued the same.

He was not cross examined.

For the defendants 1-5:

The defendants 1-5 had produced only one witness namely- Mr. P.C. Sanghnuna, Surveyor, Revenue Department (Hereinafter referred to as DW-for Defendants 1-5). In his examination in chief, he deposed that as per the order passed in their office dt. 24.3.2006, he again submitted a report on the suit land on 3/4/2006. The area covered by House Pass No. 951 of 2005 belonging to the defendant no. 6 and LSC No.104104/01/33 of 2006 belonging to defendant no. 6 is the same. Meanwhile, the area covered by House Pass No. 372 of 2005 belonging to the late husband of the plaintiff and LSC No.104104/01/333 of 2005 belonging to the plaintiff is different. The House Pass of the defendant no. 6 is in the northern side of Culvert in between Mrs. Lalruni. Meanwhile, the House Pass of the late husband of the plaintiff was the northern side of Culvert in between Mr. Tlankima. However, the LSC of the plaintiff and the LSC of the defendant no. 6 is totally overlapped. Ext. D-1 is the report dt. 3/4/2006. Ext. D- 1 (a) is his true signature.

He was fails to appear for cross examination till 1/6/2011 and closed evidence of defendants 1-5 as submitted by learned AGA

The defendant no. 6 fails to adduce his evidence although directed to produce in various dates.

ARGUMENTS

Only learned counsel for the plaintiff filed written arguments stating that from the documents admitted in evidence it is amply clear that the LSC no. 104104/01/333 of 2005 dated 05.12.05 issued in favour of the deceased C. Kaptluanga was issued in supersession of the House Pass no.372 of 2005. Whatever the defendants would say the fact is that the land was issued in favour of the plaintiff's husband under the House Pass prior to the issuance of the House Pass in favour of the defendant no.6. As regards the number of the LSC issued in favour of the defendant no.6, the plaintiff referred it as LSC NO. 104104/01/33 of 2006 because in the Exhibit - P-6 which was issued by the Assistant Director of Survey (T), L R & S, Mizoram had mentioned that the LSC of the defendant no.6 was numbered as 33 instead of 338. The plaintiff came to know that the said number was not 33 but 338 only after the defendant no.6 had submitted his LSC to the court. Hence the number mentioned in the plaint as 33 should be read as 338. It is also crystal clear that the land was first allotted to the plaintiff's husband and subsequently the Pass was issued in favour of the defendant no.6. From the statement of the plaintiff's witness P.L. Vanlalauva it is clear that there cannot be any other land except the land allotted to the plaintiff's husband to be allotted to any one else. Even if the boundary description has been mentioned differently the land in question is one and the same and he stated that "As far as I know the land of the plaintiff, which is being claimed by the defendant no.6 on the basis of the pass illegally issued by the Revenue Department cannot be one and the same. Further, apart from the plot of land to be allotted to the plaintiff, there cannot be any other vacant plot of land to be allotted to the defendant no. 6 in and around the area and the plot of land of the plaintiff was issued much before the illegal allotment of the land to the defendant no. 6. Hence the defendant no.6 cannot have any right to the portion of the land to which the LSC was issued in favor of the plaintiff." The defendants did not prove the contents of the written statement by examining themselves or by producing any witness. Further, the defendants have not proved their side of the story. It is in the evidence that the plaintiff's husband submitted the application for allotment of the house site during his life time and this can be seen from the Exhibit no.P-1 and the House Pass no. 372 of 2005 was issued in the name of the plaintiff's husband's name after his death. As this court knows due to the love for her husband and due to sentimental reasons the plaintiff had requested the Revenue authorities to issue the LSC also in the name of her late husband. If this court come to spot it would be clear that the land allotted in the name of the Plaintiff's husband is the only land available and there cannot be any other portion of the land at the locality to be allotted to the defendant no.6 at the said spot. In fact, after the death of the plaintiff's husband, she was unable to construct any structure within the land allotted in the name of her husband due to financial constraints. The defendant no.6 in his written statement had stated that his House Pass was issued earlier than the LSC issued in the name of the Plaintiff's husband, but he has forgotten that the House Pass 372 of 2005 was issued in the name of the plaintiff's husband much before the defendant no.6 illegally obtained the House Pass. Learned counsel Mr. W. Sam Joseph further stating that It is also clear from the LSC issued in favour of the plaintiff's husband that the said LSC was issued in supersession of the House Pass no.372 of 2005. Hence, the location of the

land cannot be different as there is not other vacant land in and around the plot of land allotted in the plaintiff's husband's name. There may be some discrepancy in the description of the boundary mentioned in the passes, but there cannot be any other plot of land other than the land allotted in the name of the plaintiff's husband to be allotted to any other person. Hence, allotment of the House Pass no. 951 of 2005 dated 26.07.05 and the LSC No. 104104/01/338 of 2006 issued in favour of the defendant no.6 by superseding the House Pass is illegal as there was no vacant land available at the location given in the House Pass or the LSC of the defendant no.6. Hence the same is to be declared as null and void. Mr. W. Sam Joseph concluded that if the defendant nos. 1 to 5 wants to help the defendant no. 6, they will have to give him alternate site.

FINDINGS

Issue No. 1

Whether the suit is maintainable or not

A requisite court fees is paid by the plaintiff. No laches and irregularities had been alleged and challenged in the proceedings which can vitiate the proceedings. Inevitably, this issue is therefore decided in favour of the plaintiff.

Issue No. 2

Whether the suit is barred by limitation, estoppel and acquiescence.

Admittedly, on 19th March, 2006, the disputes came into the knowledge of the plaintiff seeing that the defendant no. 6 had constructed a building in the suit land. Necessary action by preferring a complaint to the Village Council concerned and subsequent process in the Revenue Department disclose that there is no question of estoppels and acquiescence. Although different cause of action like issuance of House Pass in 2005 and later LSC in the name of the defendant no. 6 in 2006, there can be no further grounds for challenging the suit on the point of law of limitation as it was filed on 31/3/2006.

Issue No. 3

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

The law is very clear that necessary party in the suit is simply one without whom no effective order can be made as held 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, it was noted 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.”

In this view of angle, cogently, all necessary parties are impleaded in the suit towards efficacious order. No question of multifariousness had arisen during the whole proceedings till arguments.

Issue No. 4

Whether there is any cause of action 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.”

In the instant case, the plaint is properly drafted eliciting cause of action, grounds of victims of the plaintiff due to the action of the defendants is unambiguously disclosed with some legal rights of the plaintiff. The instant issue is therefore decided again in favour of the plaintiff.

Issue No. 5

Whether the plaintiff has *locus standi* to file the present suit.

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."

Without adjudication of the disputes, as deposed by the lone DW of defendants 1-5, total damage and loss of the plaintiff will be caused. No need to elaborate further the crux except decided in favour of the plaintiff.

Issue No. 6

Whether the issue of House Pass no. 372 of 2005 dated 19.4.05 and its subsequent conversion into LSC No. 104104/01/333 of 2005 dated 05.12.05 is illegal, void and invalid in view of the fact that the allottee Mr. C. Kaptluanga died on 27.11.04.

Undisputedly, the plaintiff is the legal wife of the deceased Mr. C. Kaptluanga who obtained Heirship Certificate No. 155 of 2006 issued by learned SDCC, Aizawl as Ext. P-4 over to the suit land viz. LSC No. 104104/01/333 of 2005 dated 05.12.05, the dead of Mr. C. Kaptluanga on 27.11.2004 is immaterial in the process as none contested whether in their family circle or not to claim the said landed property under LSC No. 104104/01/333 of 2005 dated 05.12.05.

However, the PWs could not clearly deposed that issuance of LSC No. 104104/01/333 of 2005 dated 05.12.05 in the name of late Mr. C. Kaptluanga is on the basis of the area covered by House Pass No. 372 of 2005 dt. 19.4.2005 or not and also fails to produce the said House Pass in the court. As unchallenged, I find no illegality to convert House Pass No. 372 of 2005 dt. 19.4.2005 into LSC No. 104104/01/333 of 2005 dated

05.12.05 except the boundary/location/area disputes which will be discussed in the following issues.

Issue No. 7

Whether the House Pass No. 372 of 2005 dated 19.4.05 of Shri C. Kaptluanga covers the same plot of land with that of House Pass No. 951 of 2005 dated 26.07.2005 of Shri. C. Lalsiamkima.

Although the plaintiff fails to produce the said House Pass No. 372 of 2005 dated 19.4.05 of Shri C. Kaptluanga and House Pass No. 951 of 2005 dated 26.07.2005 of Shri. C. Lalsiamkima and although the defendant no. 6 also fails to make exhibit of the same. In view of the Annexure I and II of the written statement of defendant no. 6, it can be seen that-

House Pass No. 372 of 2005 dated 19.4.05 of Shri C. Kaptluanga is with described that-

Location- Armed Veng South Bethlehem via Sahuan kawng an ah Culvert sir Pu Tlankima inkar

Dimension- (a) Frontage: 22.00 m (W) Sahuan road
(b) Depth: 10.00 m (S) Tlankima
(c) Depth: 12.00m (N) Kawrte
(d) Base: 22.00 m (E) Mirawng lui

Area in Sq. m- 242.00

House Pass No. 951 of 2005 dated 26.07.2005 of Shri. C. Lalsiamkima is also described as below-

Location- Armed Veng South a jeepable road leh Mirawnglui inkar, Lalrini ram bul

Dimension- (a) Frontage: 18.30 m (N) Kawng
(b) Depth: 24.00 m (E) Lalrini
(c) Depth: 24.00m (W) Ramchhia
(d) Base: 18.30 m (S) Mirawng lui

Area in Sq. m- 439.20

Presumption therefore can be drawn that there was not overlapping and encroachment on the said two House Passes in the name of deceased Mr. C. Kaptluanga and Mr. C. Lalsiamkima.

Issue No. 8

Whether the plot of land covered by House Pass No. 372 of 2005 dated 19.04.05 of C. Kaptluanga is the same plot of land covered by LSC No. 104104/01/333 of 2005 dated 5.12.05.

By reiterated that House Pass No. 372 of 2005 dated 19.4.05 of Shri C. Kaptluanga is with described that-

Location- Armed Veng South Bethlehem via Sahuan kawng an ah Culvert sir Pu Tlankima inkar

Dimension- (a) Frontage: 22.00 m (W) Sahuan road
(b) Depth: 10.00 m (S) Tlankima
(c) Depth: 12.00m (N) Kawrte
(d) Base: 22.00 m (E) Mirawng lui

Area in Sq. m- 242.00

In the said LSC No. 104104/01/333 of 2005 dated 5.12.05, the location was mentioned that *“Armed Veng South jeep road to Bethlehem Veng hrul Roliana leh kawrte inkar mirawng luikam hmarchhak”* with an area of 175.95 Sq. m. On bare perusal of the said LSC No. 104104/01/333 of 2005 as Ext. P- 3, although specific and detailed boundary description was made, it can not be cleared as well accepted that at the time of issuance of LSC No. 104104/01/333 of 2005 and issuance of House Pass No. 372 of 2005 dated 19.4.05, there will be different surrounding indicators due to development and changes of the land and its surroundings.

In view of Ext. D-1 viz. report of spot verification dt. 3/4/2006 by the Surveyor determined that the boundary and location of LSC No. 104104/01/333 of 2005 and House Pass No. 372 of 2005 dated 19.4.05 is different which cannot be shaken by evidence of the plaintiff.

Issue No. 9

Whether the plot of land covered by LSC No. 104104/01/333 of 2005 dated 05.12.2005 overlapped the land of the defendant No.6 under House Pass no. 951 of 2005 dated 26.07.05 and subsequently superseded by LSC No. 104104/01/33 of 2006 dated 27.01.06. If so, whether the LSC No. 104104/01/333 of 2005 dated 05.12.05 is liable to be cancelled.

I must look the catena within pleadings and evidences adduced therein as held in **Rangammal vs Kuppuswami & Anr.** decided on 13 May, 2011 in connection with Civil Appeal No. 562 of 2003, the Supreme Court observed thus-

“24. It is further well-settled that a suit has to be tried on the basis of the pleadings of the contesting parties which is filed in the suit before the trial court in the form of plaint and written statement and the nucleus of the case of the plaintiff and the contesting case of the defendant in the form of issues emerges out of that. This basic principle, seems to have been missed not only by the trial court in this case but consistently by the first appellate court which has been compounded by the High Court.

25. Thus, we are of the view, that the whole case out of which this appeal arises had been practically made a mess by missing the basic principle that the suit should be decided on the basis of the pleading of the contesting parties after which Section 101 of the Evidence Act would come into play in order to determine on whom the burden falls for proving the issues which have been determined.”

As already discussed in the foregoing issues, it can be seen that the plot of land covered by LSC No. 104104/01/333 of 2005 dated 05.12.2005 overlapped the land of the defendant No.6 under House Pass no. 951 of 2005 dated 26.07.05 and subsequently superseded by LSC No. 104104/01/33 of 2006 dated 27.01.06.

Whether the LSC No. 104104/01/333 of 2005 dated 05.12.05 is liable to be cancelled or not can be discussed that it is not the fault of the plaintiff for overlapping the landed property of the defendant no. 6 as House Pass area but the fault of the Revenue Department, Govt. of Mizoram, who wrongly surveyed and issued LSC No. 104104/01/333 of 2005. More so, it

is embarrassing that an expert like Revenue Officers could not detect the instant encroachment at the time of issuance of LSC No. 104104/01/33 of 2006 dated 27.01.06 and to seek settlement in their own fault. Obviously, House Pass No. 372 of 2005 dated 19.4.05 of Shri C. Kaptluanga is older/senior than the House Pass of defendant no. 6. Later, LSC No. 104104/01/333 of 2005 dated 05.12.05 issued in favour of the plaintiff is older/senior than the LSC of defendant no. 6 as LSC No. 104104/01/33 of 2006 dated 27.01.06. In this direction, as it is not the fault of the plaintiff, doctrine of *ubi jus ibi remedium* should remain prevail still recognized in the case of **Fertilizer Corporation Kamgar Union (Regd.), Sindri & Ors. vs Union Of India And Others** decided on 13 November, 1980 and reported in 1981 AIR 344, 1981 SCR (2) 52, the Apex Court has observed that-

“We have no doubt that in a competition between courts and streets as dispenser of justice, the rule of law must win the aggrieved person for the law court and wean him from the lawless street. In simple terms, *locus standi* must be liberalised to meet the challenges of the times. *Ubi just ibi remedium* must be enlarged to embrace all interests of public-minded citizens or organisations with serious concern for conservation of public resources and the direction and correction of public power so as to promote justice in its triune facets.”

At the time of oral arguments, it was admitted that there is no vacant land in the surrounding disputed areas to make correction of the boundary/area of LSC No. 104104/01/333 of 2005 even on the basis of the boundary mentioned in House Pass No. 372 of 2005 dated 19.4.05. Discretion of the court may be exercised diligently that instead of cancellation of LSC No. 104104/01/333 of 2005 dated 05.12.05, the junior LSC No. 104104/01/33 of 2006 dated 27.01.06 will be re-settled/modulated not to encroach the area covered by LSC No. 104104/01/333 of 2005 dated 05.12.05.

Issue No. 10.

Whether the plaintiff is entitled to the relief claimed, if so to what extent.

The ponder relief of the plaintiff is reiterated and answered thereof that –

- (i) Let a decree be passed declaring and confirming that the plaintiff has the right, title over the land covered under LSC No.104104/01/333 of 2005.

In this task, as per the findings and discussions of the above, the plaintiff is entitled to declare the legal and rightful owner of the landed property covered under LSC No.104104/01/333 of 2005.

- (ii) Let a decree be passed declaring that the LSC issued in favour of the defendant no.6 vide LSC no. 104104/01/33 of 2006 by the Revenue department is null and void *ab initio* and the same be cancelled.

As inevitably, LSC issued in favour of the defendant no. 6 vide LSC no. 104104/01/33 of 2006 by the Revenue department is liable to null and void *ab initio* and the same be cancelled subject to alternative arrangement in favour of the defendant no. 6 which is within the pleadings of defendant no. 6.

- (iii) Let a decree be passed declaring that the plaintiff is entitled to possession of the said land covered under LSC No.104104/01/333 of 2005 and the plaintiff be given vacant possession of the said land.

Again, the plaintiff is entitled to possession of the said land covered under LSC No.104104/01/333 of 2005 and the plaintiff be given vacant possession of the said land.

- (iv) Let a decree be passed declaring that the defendant nos. 6 has no right to interfere with the peaceful possession of the land by the plaintiff.

Towards efficacious order and peace and tranquility, the defendant nos. 6 has no right to interfere with the peaceful possession of the land by the plaintiff.

- (v) Let a decree be passed declaring that the order dated 24th March 2006 and the chit issued by the defendant no.4 to the proforma defendant are illegal, arbitrary and without any basis and the same be quashed/set aside.

As underwent of the matter and task which is more helpful to adjudicate the instant case, I find that it is immaterial to declare that the order dated 24th March 2006 and the chit issued by the defendant no.4 to the proforma defendant are illegal, arbitrary and without any basis and the same be quashed/set aside.

- (vi) By way of permanent injunction the defendants 1 to 5 and 7 be restrained from giving effect to the said LSC No.104104/01/33 of 2006.

As required, permanent injunction that the defendants 1 to 5 and 7 be restrained from giving effect to the said LSC No.104104/01/33 of 2006 is necessary.

- (vii) By way of permanent injunction the defendants 6 and all other defendants be restrained from putting up any construction or structure within the land covered under LSC No.104104/01/333 of 2005.

For the purpose of adjudication in favour of the plaintiff, permanent injunction that the defendants 6 and all other defendants be restrained from putting up any construction or structure within the land covered under LSC No.104104/01/333 of 2005 will be required.

- (viii) Let the cost of the suit be decreed in favour of the plaintiff against the defendants.

Due to peculiarities of the case as not also the fault of defendant no. 6 and although lethargy and inaccuracy of Revenue Departments, there will be no order as to costs.

- (ix) Let any other relief to which the plaintiff is entitled according to Justice, Equity and Good Conscience be decreed in favour of the plaintiff.

In this arena, demolition of the building constructed in the suit land by the defendant no. 6 and leave vacant land for the plaintiff within three months will be essential.

The defendant no. 6 in his written statement prayed that the court may graciously be pleased to dismiss the suit as it is misconceived and devoid of any merit and any order or direction as the court may deem fit and proper.

The defendant no. 6 will therefore be entitled to allot another vacant plot of land with same valuation of the landed property under LSC No.104104/01/33 of 2006.

The defendants 1-5 prayed to dismiss of the suit with exemplary costs of the suit. It is therefore not necessary for adjudicating process of the suit as discussed above.

ORDER

UPON appreciating evidences adduced during the proceedings and as per the findings discussed as above, it is hereby ORDERED and DECREED that -

- (i) The plaintiff is declare as the legal and rightful owner of the landed property covered under LSC No.104104/01/333 of 2005.
- (ii) The LSC issued in favour of the defendant no.6 vide LSC no. 104104/01/33 of 2006 by the Revenue department is null and void *ab initio* and the same be cancelled so far as in encroached and overlapped the area covered by LSC No.104104/01/333 of 2005.
- (iii) The plaintiff is entitled to possession of the said land covered under LSC No.104104/01/333 of 2005 and the plaintiff be given vacant possession of the said land.
- (iv) The defendant no. 6 has no right to interfere with the peaceful possession of the land by the plaintiff under LSC No.104104/01/333 of 2005.
- (v) The defendants 1 to 5 and 7 are restrained permanently from giving effect to the said LSC No.104104/01/33 of 2006.
- (vi) The defendant no. 6 and all other defendants are further restrained permanently from putting up any construction or structure within the land covered under LSC No.104104/01/333 of 2005 except without the permission/consent of the plaintiff.
- (vii) The defendant no. 6 is directed to dismantle/demolish his constructed building in the suit land covered by LSC No.104104/01/333 of 2005 and leave vacant land in favour of the plaintiff within three months from the date of this order or the date of receiving this order.

For the sake of justice, the defendant no. 6 is entitled to allot another vacant plot of land with same valuation of the landed property under LSC No.104104/01/33 of 2006 by the Revenue Department, Govt. of Mizoram as defendants 1-5 and 7 in the instant suit within three months from the date of this order or the date of receiving this order.

Parties are directed to bear their own costs, the case shall stand disposed of accordingly.

Give this copy to both parties and all concerned.

Given under my hand and seal of this court on this 31st October, 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. TS/2/2006, Sr. CJ (A)/

Dated Aizawl, the 31st Oct., 2011

Copy to:

1. Smt. Lalhmangaihchhungi W/o Kaptluanga (L), Armed Veng South, Aizawl through Mr. W. Sam Joseph, Adv.
2. The State of Mizoram, represented by the Chief Secretary to the Govt. of Mizoram through Mr. R. Lalremruata, AGA
3. The Secretary to the Govt. of Mizoram, Land Revenue & Settlement Department through Mr. R. Lalremruata, AGA
4. The Director, Directorate of Land Revenue & Settlement, Aizawl, Mizoram through Mr. R. Lalremruata, AGA
5. The Joint Director of Survey, Land Revenue & Settlement, Aizawl, Mizoram through Mr. R. Lalremruata, AGA
6. The Asst. Director of Survey (T), Land Revenue & Settlement, Aizawl, Mizoram through Mr. R. Lalremruata, AGA
7. Mr. Lalsiamkima S/o Bualtawna, Republic Veng, Aizawl through Miss Linda L. Fambawl, Adv.
8. The Assistant Settlement Officer-I, Land Revenue & Settlement, Aizawl, Mizoram through Mr. R. Lalremruata, AGA
9. P.A to Hon'ble District & Sessions Judge, Aizawl Judicial District- Aizawl
10. Case Record.

PESKAR

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

DECREE

TITLE SUIT NO. 02 OF 2006

Plaintiff:

Smt. Lalmangaihchhungi
W/o Kaptluanga (L)
Armed Veng South, Aizawl

By Advocates

: 1. Mr. W. Sam Joseph
2. Mr. Zochhuana
3. Mr. Hranghmingthanga
4. Mr. F. Lalenglina
5. Mr. Francis Vanlalzuala

Versus

Defendants:

8. The State of Mizoram
Through the Chief Secretary to
the Govt. of Mizoram, Aizawl.
9. The Secretary to the Govt. of
Mizoram, Land Revenue &
Settlement Department Aizawl
Mizoram.
10. The Director,
Land Revenue & Settlement,
Aizawl, Mizoram.
11. The Joint Director of Survey
Land Revenue & Settlement,
Aizawl, Mizoram.
12. The Asst. Director of Survey (T)
Land Revenue & Settlement,
Aizawl, Mizoram.
13. Mr. Lalsiamkima
S/o Bualtawna
Republic Veng, Aizawl
14. The Assistant Settlement
Officer-I, Land Revenue &
Settlement Department
Aizawl District: Aizawl

By Advocates for Nos. 1-5 & 7

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

By Advocates for No. 6

: Miss Linda L. Fambawl

Proforma defendant:

The President
Village Council
Armed Veng South, Aizawl

By Advocates

:

Date of Arguments : 25-10-2011

Date of Judgment & Order : 31-10-2011

BEFORE

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

DECREE

This suit coming on this 31st Oct., 2011 for final disposal before Dr. H.T.C. Lalrinchhana, Senior Civil Judge-1, it is ordered and decreed that

- (viii) The plaintiff is declare as the legal and rightful owner of the landed property covered under LSC No.104104/01/333 of 2005.
- (ix) The LSC issued in favour of the defendant no.6 vide LSC no. 104104/01/33 of 2006 by the Revenue department is null and void *ab initio* and the same be cancelled so far as in encroached and overlapped the area covered by LSC No.104104/01/333 of 2005.
- (x) The plaintiff is entitled to possession of the said land covered under LSC No.104104/01/333 of 2005 and the plaintiff be given vacant possession of the said land.
- (xi) The defendant no. 6 has no right to interfere with the peaceful possession of the land by the plaintiff under LSC No.104104/01/333 of 2005.
- (xii) The defendants 1 to 5 and 7 are restrained permanently from giving effect to the said LSC No.104104/01/33 of 2006.
- (xiii) The defendant no. 6 and all other defendants are further restrained permanently from putting up any construction or structure within the land covered under LSC No.104104/01/333 of 2005 except without the permission/consent of the plaintiff.
- (xiv) The defendant no. 6 is directed to dismantle/demolish his constructed building in the suit land covered by LSC No.104104/01/333 of 2005 and leave vacant land in favour of the plaintiff within three months from the date of this order or the date of receiving this order.

For the sake of justice, the defendant no. 6 is entitled to allot another vacant plot of land with same valuation of the landed property under LSC No.104104/01/33 of 2006 by the Revenue Department, Govt. of Mizoram as

defendants 1-5 and 7 in the instant suit within three months from the date of this order or the date of receiving this order.

Given under my hand and seal of the Court on this 31st day of October, 2011.

Seal of the court

Judge