

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

**TITLE SUIT NO. 21 OF 2007**

*Plaintiff:*

Shri J. Pachhunga  
S/o. Zaluta  
R/o Melthum, Aizawl, Mizoram  
Represented by his constituted attorney  
Shri Pazawna  
S/o. Zaluta.  
R/o. Hlimen, Aizawl, Mizoram.

*By Advocate's* : Mr. Rualkhuma Hmar, Adv

*Versus*

*Defendants:*

1. 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 Secretary to the Government of Mizoram, Public Works Department, Aizawl, Mizoram.
4. The Deputy Commissioner, Aizawl District, Aizawl, Mizoram.
5. The Director, Directorate of Land Revenue & Settlement, Aizawl, Mizoram.
6. The Under Secretary to the Government of Mizoram, Land Revenue & Settlement, Aizawl, Mizoram.
7. The Assistant Settlement Officer-I, Land Revenue & Settlement, Aizawl, Mizoram.
8. The Assistant Director, Land Revenue & Settlement, Aizawl, Mizoram.

9. The Assistant to the Deputy Commissioner i/c Revenue, Office of the District Commissioner, Aizawl District, Aizawl, Mizoram.
10. The Assistant Director of Survey (A), Land Revenue & Settlement, Aizawl, Mizoram.
11. The Chief Engineer (Highways), Public Works Department, Aizawl, Mizoram.
12. The Special Land Acquisition Officer, Project Implementation Unit, Public Works Department, Aizawl, Mizoram.
13. Mr. Lalnunmawia  
S/o. P.C. Laldika  
Melthum, Aizawl.
14. Mr. Vanlalchhanhima Sailo  
S/o. Lalzamliaana Sailo  
Melthum, Aizawl.
15. Mr. Lalzedanga  
S/o Thlahhleia (L)  
Melthum, Aizawl.
16. Mr. Lalmuankima  
S/o. Laltawiliana Sailo  
Melthum, Aizawl.
17. Mr. Pahanga  
S/o Thangchhunga (L)  
Melthum, Aizawl.
18. Mr. C. Vanlalruata  
S/o. Robuanga  
Melthum, Aizawl.
19. Mr. P.C. Vanlalzara  
S/o. Biaktluanga  
Melthum, Aizawl.
20. Mr. Lalbiaksanga  
S/o. Sawithanga (L)  
Melthum, Aizawl.
21. Smt. Chhunrumi  
D/o. Khualtawna (L)  
Melthum, Aizawl.
22. Smt. Lalhnehzovi  
D/o. Lalrintluanga (L)  
Melthum, Aizawl.

23. Mr. Lalthansanga  
S/o. Lalhlira (L)  
Melthum, Aizawl.
24. Smt. Thandiki  
D/o. Lalhluna (L)  
Melthum, Aizawl.
25. Mr. Zothanmawia  
S/o. Lalhlimpaia, Melthum  
Aizawl.
26. Mr. P.C. Lalawmpuia  
S/o. Khualtawna (L) Melthum  
Aizawl.
27. Mr. Romawia  
S/o. Dengrikhuma (L)  
Melthum, Aizawl.
28. Mr. Lalrinkima  
S/o. Vanrova, Melthum, Aizawl.

*By Advocates for Nos. 1-12* : 1. Mr. R. Lalremruata AGA  
2. Miss Bobita Lalhmingmawii, AGA

*By Advocates for Nos. 13-28* : 1. Mr. Aldrin Lallawmzuala, Adv.  
2. Miss Rosy Lalnuntluangi, Adv.

Date of Arguments : 20-09-2011

Date of Judgment & Order : 04-10-2011

### **BEFORE**

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

### **JUDGMENT & ORDER**

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### **BRIEF STORY OF THE CASE**

The plaintiff Mr. J. Pachhunga filed the present suit under Title Suit No. 21 of 2007 against the State of Mizoram represented by the Chief Secretary to the Government of Mizoram, Land Revenue & Settlement Department, and others praying for declaration of title of the property covered by Misc. Pass No. 12 of 1970. The plaintiff in his plaint stated that he was issued a Misc. Pass No. 12 of 1970 vide No. EP 5/70/6382 dt. 2<sup>nd</sup> November 1970 by the issuing officer, Mizo District Council. That the area of the said land was extended vide No. DSL/FR-42/74/17982-85 dt. 6.11.1974 issued by the defendant No. 7 A.S.O.-I, and again on 1.8.1990 the boundary description was revised. That on 4.10.1996, the Revenue Director, the defendant No.5 stated that the plaintiff was maintaining a land in excess of his pass, and that land apart from 10 bighas out of 34.65 bighas was prepared for house sites for the defendant No. 13-28 and hence this suit. The plaintiff therefore prays that (i) a decree be passed in favour of the plaintiff against the defendants declaring that the plaintiff is the owner

and title holder of the suit land measuring 34.65 bighas covered by Misc Pass No. 12 of 1970 as per the boundary demarcation mentioned in the said pass of the plaintiff (ii) a decree be passed in favour of the plaintiff against all defendants not to disturb the plaintiff's peaceful possession and occupation of the suit land in any way (iii) a decree be passed in favour of the plaintiff against all defendants cancelling any allotment of land to any person within the boundary description of the said Misc Pass No. 12 of 1970 (iv) a decree of mandatory permanent injunction be passed in favour of the plaintiff not to disturb the plaintiff's peaceful possession and occupation of the suit land in any way and that the house site plan made by the defendants be cancelled and (v) a decree be passed in favour of the plaintiff against the defendants that the plaintiff is legally entitled as per the provisions of law, justice, equity and good conscience.

On the other hand, the defendant No. 1-12 filed a written statement denying the averment in the plaint stating that the area of the plaintiff's Misc. Pass No. 12 of 1970 is 10 bighas and that the plaintiff simply claimed in excess and prayed the court to dismiss the suit.

The defendants 13-28 also filed written statements stating that as per the findings of the Revenue Department under Memo No. D. 11013/8/97-Tech/DTE (REV) Dt. Aizawl, the 21<sup>st</sup> Nov/1997, the area covered by Garden Pass No. was only 2 bighas but claimed 12.43 bighas by the plaintiff. More so, the area covered by Pass No. 12/2007 was only 10 bighas but claimed 34.65 bighas by the plaintiff. Thus, prayed to dismiss of the suit.

### **ISSUES**

The following issues were framed on 01-06-2009 and was amended such as-

1. Whether the suit is maintainable or not
2. Whether the plaintiff in excess of the area stipulated in his Misc Pass No. 12 of 1970 had occupied the suit land
3. Whether the plaintiff is entitled to the relief claimed or not. If so, to what extend.

### **BRIEF ACCOUNT OF EVIDENCE**

The plaintiff had produced the following witnesses namely-

1. Mr. J. Pachhunga S/o Zaluta, Hlimen (Hereinafter referred to as PW-1)
2. Mr. J. Thantluanga S/o Chalchhunga, Saikhamakawn (Hereinafter referred to as PW-2)
3. Mr. J. Pazawna S/o Zaluta, Hlimen (Hereinafter referred to as PW-3)

The **PW-1** being the plaintiff himself merely reiterated his contents of plaint in his examination in chief.

During his cross examination, he admitted that the area covered by his Misc Pass No. 12 of 1970 is 10 bighas as he submitted in the instant case. He did not have any action against the Revenue Order dt. 4.10.1996.

His land in the suit land is looking after by the grandfather of his elder brother.

The **PW-2** in his examination in chief deposed that he was employed as the manual labour around the farmhouse of the plaintiff during 1977-1983 and also reiterated the area which he knows of the suit land as per the contents of the plaint.

In his cross examination, he admitted that he did not see the Pass of the plaintiff including the area mentioned in the Pass. He further admitted that the area mentioned in his examination in chief on the suit land was on the basis of the area claimed by the plaintiff.

The **PW-3** in his examination in chief deposed that he is the holder of Power of Attorney executed by the plaintiff in respect of the instant case. In detail of the minutes, he reiterated the contents of the plaint.

In his cross examination, he admitted that as per the Mizo District Council Pass No. 12/1970, the land allotted to the plaintiff was 10 bighas. He did not know that whether the plaintiff had occupied the area in excess of the Pass. He look after the suit land since 1970.

For the defendants 1-12:

The defendants 1-12 had produced only one witness namely- Mr. K. Sangthuama, Under Secretary to the Govt. of Mizoram, Revenue Department (Hereinafter referred to as DW-for Defendants 1-12). In his examination in chief, he deposed that he did not have any complaint on the genuineness of the Pass of the plaintiff except the area is only at 10 bighas. After thirty years, the plaintiff claimed 34.65 bighas in the suit land in contravention of the area specified in the Misc Pass.

In his cross examination, he deposed that they admitted the genuineness of the Pass with 10 bighas and no matter of development of the suit land by the plaintiff was beyond their knowledge.

The other defendants fails to adduce their evidence and indeed betray the proceedings except their written statements.

## **ARGUMENTS**

Mr. Rualkhuma Hmar, learned counsel for the plaintiff submitted that if the area embodied in the Pass and occupied area is different, reducing the area owned by the holder is not justifiable. Thus, prayed to direct the Revenue Authorities to rectify the suit land in favour of the plaintiff in tune with the exact occupied area.

On the other hand, Mr. R. Lalremruata, learned AGA submitted that from the plaint, written statement and witnesses, it is clear that (i) the area of Misc Pass no 12 of 1970 was initially 3 bighas (ii) the area of Misc Pass no 12 of 1970 was extended to 10 bighas memo no DSL/FR-42/74/17982-

85 Dt 6.11.74 (iii) no further extension of the area of Misc Pass no 12 of 1970 was made. In fact the plaintiff failed to show the Govt order for extension of the area of the said pass as alleged by the plaintiff in 1990, even though there was a department order for extension of the area from 3 to 10 bighas (iv) the plaintiff witness Pu Pazawna who actually looked after the suit land after 1980 stated that nobody applied for extension of the said pass. Hence there is no question of extension of the suit land in 1990 (v) even though the Misc Pass No. 12 of 1970 was issued to Pu J Pachhunga for the purpose of Poultry farm, Pu J Pazawna looked after the suit land and the suit land was used for something else other than poultry farm (vi) no encroachment was made by the defendants No. 13-28 to the plaintiff land and moreover the defendants did not disturb the peaceful possession of the plaintiff's land till date as deposed on cross examination by Pu J. Pazawna who looked after the suit land (vii) Pu J. Thantluanga, the plaintiff's witness who claimed to have been employed by the plaintiff in 1977-1983 stated that he knew the boundaries of the suit land. As deposed himself on cross examination, he came to know the area of the suit land during those period i.e. 1977-1983, and what he knew about the boundaries of the suit land at those period is similar to the boundaries of the alleged pass of the plaintiff. Then what is absurd is that, while the boundary description (alleged) written in the Misc Pass No. 12 of 1970 without department office order or as claimed by the plaintiff in para 6 of the plaint is based on the alleged area correction made on 1.8.1990, the same boundary description was in existence before 1983 as stated by the plaintiff witness Pu J. Thantluanga. This clearly reveals that the whole case is a fabricated (viii) Pu J. Pachhunga, the plaintiff deposed that he had not pursued the Revenue Department order dt. 4.10.1996 Ext C-5 (i.e. Annexure 5 of the plaint) for modification, setting aside or cancellation. Hence the present suit is liable to be dismissed (ix) the plaintiff never made a complaint stating that his land was larger/bigger than 10 bighas to the government before the house site plan which means that he accepted the area of 10 bighas (x) the V.C. and Y.M.A Melthum are supposed to know the vacant land in their jurisdiction (xi) the boundary description claimed by the plaintiff is a fabricated one as it was not supported by government order. Moreover, the said boundary description is very vague (xii) the occupied land of the plaintiff was covered by 10 bighas allotted as per Misc Pass 12 of 1970 as stated by Pu J. Pazawna, the plaintiff witness who actually looked after the suit land. This clearly shows that the area of the plaintiff land is 10 bighas.

## **FINDINGS**

### **Issue No. 1**

#### **Whether the suit is maintainable or not**

Deficiency of requisite court fees is also made up by the plaintiff on 03-10-2011. No laches and irregularities are alleged in the proceedings which can vitiate the proceedings. The issue is therefore decided in favour of the plaintiff.

### **Issue No. 2**

#### **Whether the plaintiff in excess of the area stipulated in his Misc Pass No. 12 of 1970 had occupied the suit land**

As admitted by the PWs 1 and 3 in their cross examination, the area of the suit land under Misc Pass No. 12 of 1970 is only 10 bighas whilst the PW-2 was not aware of the said Misc Pass being mere employee/casual

labour by the plaintiff in the suit land. Admittedly, admission is the best and strongest evidence in the jurisprudence, so is the admissions of the plaintiff, the plaintiff occupied the suit land in excess of the area documented in his Misc Pass No. 12 of 1970.

### **Issue No. 3**

**Whether the plaintiff is entitled to the relief claimed or not. If so, to what extend.**

As per the findings under issue no. 2, I find that the plaintiff did not entitled any relief in excess of the area embodied in his Misc Pass No. 12 of 1970 whilst the genuineness of the said pass is undisputed as deposed by the lone DW. I therefore could not have any other findings except the findings of the Revenue Department under Memo No. D. 11013/8/97-Tech/DTE (REV) Dt. Aizawl, the 21<sup>st</sup> Nov/1997, the area covered by Garden Pass No. was only 2 bighas but claimed 12.43 bighas by the plaintiff. More so, the area covered by Pass No. 12/2007 was only 10 bighas but claimed 34.65 bighas by the plaintiff.

### **ORDER**

UPON appreciating evidences adduced during the proceedings and as per the findings discussed as above, as inevitable, the suit is dismissed on merit.

No order as to cost of the suit, 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 4<sup>th</sup> 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/21/2007, Sr. CJ (A)/

Dated Aizawl, the 4<sup>th</sup> Oct., 2011

Copy to:

1. Shri J. Pachhunga S/o. Zaluta R/o Melthum, Aizawl, Mizoram Represented by his constituted attorney Shri Pazawna S/o. Zaluta. R/o. Hlimen, Aizawl, Mizoram through Mr. Rualkhuma Hmar, 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 Secretary to the Government of Mizoram, Public Works Department, Aizawl, Mizoram.
5. The Deputy Commissioner, Aizawl District, Aizawl, Mizoram through Mr. R. Lalremruata, AGA
6. The Director, Directorate of Land Revenue & Settlement, Aizawl, Mizoram through Mr. R. Lalremruata, AGA
7. The Under Secretary to the Government of Mizoram, Land Revenue & Settlement, Aizawl, Mizoram through Mr. R. Lalremruata, AGA
8. The Assistant Settlement Officer-I, Land Revenue & Settlement, Aizawl, Mizoram through Mr. R. Lalremruata, AGA
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15. Mr. Vanlalchhanhima Sailo S/o. Lalzamlia Sailo, Melthum, Aizawl through Miss Rosy Lalnuntluangi, Adv.
16. Mr. Lalzedanga S/o Thlahhleia (L), Melthum, Aizawl through Miss Rosy Lalnuntluangi, Adv.
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26. Mr. Zothanmawia S/o. Lalhlimpaia, Melthum, Aizawl through Miss Rosy Lalnuntluangi, Adv.



27. Mr. P.C. Lalawmpuia S/o. Khualtawna (L) Melthum, Aizawl through Miss Rosy Lalnuntluangi, Adv.
28. Mr. Romawia S/o. Dengrikhuma (L), Melthum, Aizawl through Miss Rosy Lalnuntluangi, Adv.
29. Mr. Lalrinkima S/o Vanrova, Melthum, Aizawl through Miss Rosy Lalnuntluangi, Adv.
30. P.A to Hon'ble District & Sessions Judge, Aizawl Judicial District-Aizawl
31. Case Record.

PESKAR