

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

Civil Misc Application No. 256 of 2011

[Arising out of Declaratory Suit No. 37 of 2009]

Petitioner/ Plaintiff:

Mr. C. Laltanpuia
S/o C. Thankhuma
Laipuitlang, Aizawl

Versus

Respondents/Defendants:

1. The Secretary to the Govt. of Mizoram
Land Revenue and Settlement Department
Mizoram- Aizawl
2. The Director
Land Revenue and Settlement Department
Govt. of Mizoram
Mizoram- Aizawl
3. The Assistant Settlement Officer- 1
Aizawl District: Aizawl
4. Mr. John Lalthangfala
S/o Rangkunga (L)
Maubawk, Kawnveng- Aizawl

BEFORE

Dr. H.T.C. LALRINCHHANA, MJS
Senior Civil Judge-1
Aizawl District: Aizawl

For the Petitioner	: Mr. L.H. Lianhrima, Adv.
For the respondents 1-3	: 1. Mr. R. Lalremruata, AGA 2. Miss Bobita Lalhmingmawii, AGA
For the respondent no. 4	: 1.Mr. C. Lalramzauva, Sr. Adv. 2. Mr. A. Rinliana Malhotra, Adv. 3. Mr. Joseph Lalfakawma, Adv. 4. Mr. T.J. Lalnuntluanga, Adv. 5. Mr. K. Laldinliana, Adv. 6. Miss Penlui Vanlalchawii, Adv.

Date of hearing : 13-04-2012
Date of Order : 13-04-2012

ORDER

BRIEF FACTS

The petitioner filed the instant application for granting permission to construct a house building within the landed area covered by LSC No. 1837 of 2008 which is registered in the name of the petitioner u/s 151 of the Code of Civil Procedure, 1908. The application is tenable in law as held in **Jet Ply Wood Private Ltd. & Anr Vs. Madhukar Nowlakha & Ors** in connection with Appeal (civil) 1367 of 2006 and decided on 28/02/2006 reported in 2006 AIR 1260, 2006 (2) SCR 761, 2006 (2) SCALE 729, 2006 (3) JT 60.

At the time of hearing, learned counsels of both parties with the assistance of private parties are not in disputed that the land under LSC No. 1837 of 2008 is not disputed area/beyond the disputed elaka in the main suit although written objection is filed by the private respondent. The petitioner also submitted the clear sketch map of the elakas which is much helpful for determining the real disputed area.

ORDER

So is the factual matrix and admissions of both parties, since it is a well settled law that right to property is not only constitutional rights but also a matter of human rights. The petitioner must have exclusive rights to enjoy the landed property covered by LSC No. 1837 of 2008 but not harming the disputed areas and status quo in the main suit viz. Declaratory Suit No. 37 of 2009 by taking reliance in **Narmada Bachao Andolan vs State Of M.P. & Anr.** decided on 11 May, 2011 in connection with Civil Appeal No. 2082 of 2011, the Supreme Court has held that-

“26. This Court has consistently held that Article 300-A is not only a constitutional right but also a human right. (Vide: Lachhman Dass v. Jagat Ram & Ors., (2007) 10 SCC 448; and Amarjit Singh & Ors. v. State of Punjab & Ors. (2010) 10 SC 43).”

Also vide, the observation of Hon’ble Apex Court in **State Of Haryana vs Mukesh Kumar & Ors.** decided on 30 September, 2011 in connection with Appeal (Civil) No. 28034/2011 (Arising out of CC 9038/2010)

Thus, the petitioner is henceforth allowed to construct the house building under LSC No. 1837 of 2008 which itself is put in his name even before disposal of the main suit by having exclusive rights to enjoy his

constitutional and human rights subject to not to derogate and harm the status quo in the main suit.

In the above terms, petition shall stand disposed of accordingly.

Give this order copy to all concerned.

Given under my hand and seal of this court on this 13th April, 2012 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. Misc A/256/2011, Sr. CJ (A)/ Dated Aizawl, the 13th April, 2012

Copy to:

1. Mr. C. Laltanpuia S/o C. Thankhuma, Laipuitlang- Aizawl through Mr. L.H. Lianhrima Adv.
2. The Secretary to the Govt. of Mizoram, Land Revenue & Settlement Department through Mr. R. Lalremruata, AGA
3. The Director, Land Revenue & Settlement Department- Govt. of Mizoram, Aizawl through Mr. R. Lalremruata, AGA
4. The Assistant Settlement Officer- I, Aizawl District- Aizawl, Land Revenue & Settlement Department- Govt. of Mizoram, Aizawl through Mr. R. Lalremruata, AGA
5. Mr. John Lalthangfala S/o Rangkunga (L), Maubawk, Kawn Veng- Aizawl through Mr. C. Lalramzauva Sr. Adv.
6. P.A. to Hon'ble District & Sessions Judge, Aizawl Judicial District, Aizawl
7. Case record.

PESKAR