

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

REVISION CASE NO. 01 OF 2008

Petitioner:

Mr. Ngurduhsanga
S/o C. Sanghuliana
Hunthar Veng, Aizawl

By Advocates

: 1. Mr. R.C. Thanga
2. Smt. Lalthanmawii
3. Mr. K. Kawlkhuma

Versus

Respondent's:

Smt. P.B. Vanhlupuii
C/o Directorate of Economics and Statistics
Govt. of Mizoram

By Advocates

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

Date of hearing : 25-04-2012

Date of Judgment & Order : 25-04-2012

BEFORE

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

JUDGMENT AND ORDER

INTRODUCTORY

As per the Notification issued by the Govt. of Mizoram under No. A. 51011/3/06- LJE Dated Aizawl, the 1st Dec., 2011 in pursuance of the resolution adopted by the Hon'ble Administrative Committee of Gauhati High Court dt. 1/11/2011 and in accordance with the later circular issued by the Hon'ble District Judge, Aizawl Judicial District, Aizawl under No. A. 22017/14/2009- DJ (A), Aizawl, the 5th Dec., 2011, case record being pending appellate case in the previous District Council Court, Aizawl is endorsed to me and proceed in this court. These all are the outcome of the

nascent insulation of judiciary from the executives in Mizoram towards meeting globalization era in the very competitive globe where malfunctioning of the government is a sine quo non to vanish.

BRIEF STORY

This instant petition is directed against the judgment & order passed by the learned Magistrate, Subordinate District Council Court, Aizawl dt. 14.09.2004 in Civil Suit No. 36 of 2003. Wherein, the learned Magistrate adjudicated the case/suit on the basis of compromise of the disputes by parties through joint petition of all parties in the lis.

Neither the petitioner nor his learned counsel fails to appear the court without knowing reasons. Learned counsel for the respondent is appeared positively. Mr. W. Sam Joseph, learned counsel for the petitioner vehemently submitted that as the impugned decree was on the basis of compromisation of parties. There is no point to set aside where the appellant himself was also involved in the said compromise decree. By virtue of the Explanation embodied under O. XLI, R. 17 (1) of the CPC, appeal can also be dismissed on merit even when the failure of attendance of the appellant/petitioner. Thus, decided to deal the case on merit.

FINDINGS AND REASONS

The provision of Rule 33 of the Lushai Hills Autonomous District (Administration of Justice) Rules, 1953 which vested Revisional power to the District Council Court says in two conditions for interference in the proceedings in its Subordinate Courts that (i) a fair and impartial inquiry or trial is susceptible and (ii) some question of law, tribal or otherwise, of unusual difficulty is likely to arise. However, undisputedly, the appellant was defendant no. 1 in the original suit and the suit is adjudicated on the basis of compromise of disputes by parties. The law on the consent decree like in the instant decree is already settled in **Pushpa Devi Bhagat (D) Th. LR.Smt. Sadhna Rai Vs. Rajinder Singh & Ors.** in connection with Appeal (civil) 2896 of 2006 decided on 11/07/2006 and reported in 2006 AIR 2628, 2006 (3) Suppl. SCR 370, 2006 (5) SCC 566, 2006 (7) SCALE 8, 2006 (6) JT 235, it was held that-

“Therefore, the only remedy available to a party to a consent decree to avoid such consent decree, is to approach the court which recorded the compromise and made a decree in terms of it, and establish that there was no compromise. In that event, the court which recorded the compromise will itself consider and decide the question as to whether there was a valid compromise or not. This is so because a consent decree, is nothing but contract between parties superimposed with the seal of approval of the court. The validity of a consent decree depends wholly on the validity of the agreement or compromise on which it is made.”

Thus, no interference being appellate/revisional court in the impugned order passed by the learned Magistrate, Subordinate District Council Court, Aizawl dt. 14.09.2004 in Civil Suit No. 36 of 2003 is not warrant.

ORDER

In view of the above lengthy discussions and findings, the instant petition as want of jurisdiction in the light of the observations of Hon'ble Supreme Court in **Pushpa Devi Bhagat (D) Th. LR.Smt. Sadhna Rai Vs. Rajinder Singh & Ors (supra.)** is hereby dismissed. No order as to costs.

Give this copy to all concerned.

With this order, the case shall stand disposed of.

Given under my hand and seal of this court on this 25th 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. Rev. C/1/2008, Sr. CJ (A)/ Dated Aizawl, the 25th April, 2012

Copy to:

1. Mr. Ngurduhsanga S/o C. Sanghuliana, Hunthar Veng, Aizawl through Mr. R.C. Thanga, Adv.
2. Smt. P.B. Vanhlupuii C/o Directorate of Economics and Statistics, Govt. of Mizoram through Mr. W. Sam Joseph, Adv.
3. P.A. to Hon'ble District Judge, Aizawl Judicial District- Aizawl
4. Case record.

PESKAR