

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

CIVIL SUIT NO. 11 OF 2010

Plaintiff:

Smt. Sanghmingthangi  
D/o Rualkhuma  
Chanmari West, Aizawl

*By Advocates*

- : 1. Mr. W Sam Joseph, Adv.  
2. Mr. Zochhuana, Adv.  
3. Mr. Hranghmingthanga Ralte, Adv.  
4. Mr. F. Lalenglina, Adv.  
5. Mr. Francis Vanlalzuala, Adv.  
6. Mr. C. Lalfakzuala, Adv.

*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 and Settlement Department  
Govt. of Mizoram, Aizawl
3. The Director  
Land Revenue and Settlement Department  
Govt. of Mizoram, Aizawl
4. The Secretary to the Govt. of Mizoram,  
Public Works Department  
Mizoram, Aizawl
5. The Chief Engineer  
Public Works Department, Zone-1  
Govt. of Mizoram, Aizawl
6. The Superintending Engineer  
Public Works Department  
Central Circle  
Govt. of Mizoram
7. The Executive Engineer  
Public Works Department  
Road North Division, Aizawl

Govt. of Mizoram, Aizawl

8. The Director  
Local Administration Department  
Govt. of Mizoram
9. The Secretary to the Govt. of Mizoram  
Local Administration Department  
[Impleaded on 12/10/2010]
10. The District Collector  
Aizawl District: Aizawl  
[Impleaded on 12/10/2010]
11. The President  
Village Council  
Edenthlar- Aizawl  
[Impleaded on 12/10/2010]

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

Date of Arguments : 27-07-2012

Date of Judgment & Order : 30-07-2012

### **BEFORE**

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

### **JUDGEMENT & ORDER**

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

The plaintiff in her plaint submitted that she had purchased a plot of land under LSC No. 1103/87 as converted from Mr. Laldawngliana, Republic Veng, Aizawl with an area of 451.75 Sq. m. After sliced out some portion of her LSC during 1999, it covers an area of 238.87 Sq. m. In 1996, the Local Administration Department had constructed a foot path from approach road to Chanmari cemetery to approach road to Edenthlar locality by cutting across the land of the plaintiff without the consent of the plaintiff. Again during 2000, the Public Works Department had constructed Chanmari Cemetery to Edenthlar truckable road cutting across the land of the plaintiff. Although the plaintiff submitted her appeal to the authorities for compensation as soon as she knew the matter, it became vain. The Revenue Department also verified and found that the said road construction encroached upon the land of the plaintiff. In pursuance to her complaint to the District Collector, Aizawl, the Sub-Deputy Magistrate who conducted spot verification also found that the land of the plaintiff admeasuring 0.11 bigha was traversed by the said road construction. The plaintiff therefore

prayed that (i) a decree be passed declaring that the plaintiff is the legal and rightful owner of the land covered under LSC No. 1103/87 and has title, interest and possession of the said land covered under the said LSC (ii) a decree be passed directing the defendants to shift PWD road traversing through the land of the plaintiff covered under LSC No. 1103/87 to some other location and give vacant and peaceful possession of the entire land covered under LSC No. 1103/87 to the plaintiff and in the event of the road passing through the plaintiff's land cannot be shifted from the land of the plaintiff and the said land is absolutely required for public purpose, the same be required as per laws time being in force in Mizoram (iii) by way of permanent and mandatory injunction restraining the defendants from doing anything detrimental to the interest of the plaintiff and (iv) any other relief which this court deems fit and proper.

The defendants 2 and 3 in their written statements stated that a spot verification of the disputed land was conducted by the Revenue Department and appeared that a motorable road has passed through the area of the LSC of the plaintiff.

The defendants 4-7 in their written statements stated that the Public Works Department had done works over the existing road in the year 2000, they never encroached the land of the plaintiff. They did not commit any widening road over the land of the plaintiff since the existing road over the suit land needed no more widening for village road standard. Their road construction was out of the money funded by the Local Administration Department in the year 1996 and it was not constructed by them as Public Works Department.

The defendant no. 8 in their written statements stated that they have no record pertaining to funded or executed by them over the suit land in 1996. No documents of the plaintiff were elicited that the defendant no. 8 had cut across the land of the plaintiff. The road in question is now already metalled and is diversion from NH-54 and is within the purview of Public Works Department, Govt. of Mizoram.

The other defendants did not contest in the case.

### **ISSUES**

Issues were framed on 18.02.2011 and amended towards correct adjudication of the lis as follows-

1. Whether the suit is maintainable in its present form and style
2. Whether the plaintiff can be declared as the rightful owner of the land under LSC No. 1103/87 by having title, interest and possession of the said land
3. Whether the land of the plaintiff under LSC No. 1103/87 was encroached and traversed by the defendants for construction of a road or not.
4. Whether the plaintiff is entitled to reliefs claimed. If so, to what extent and from whom.

## BRIEF ACCOUNT OF EVIDENCE

### For the plaintiff:

The plaintiff had produced the following witnesses namely-

1. Smt. Sanghmingthangi D/o Rualkhuma, Chanmari West, Aizawl (Hereinafter referred to as PW-1)
2. Smt. Sangliani W/o K. Lianzama, Chamari West, Aizawl (Hereinafter referred to as PW-2)
3. Smt. Lalduhawmi, J.E., PWD, New Secretariat Complex, Aizawl (Hereinafter referred to as PW-3)
4. Mr. B. Lalnunkima S/o Biaksanga, Edenthlar, Aizawl (Hereinafter referred to as PW-4)

The **PW-1** in her examination in chief reiterated and affirmed the contents of the plaint being the plaintiff herself. She further continued that-

Ext. P-1 is a copy of LCS No. 1103 of 1987

Ext. P-2 is a copy of receipt payments in regards to LCS No. 1103 of 1987

Ext. P-3 is a copy of application submitted by the plaintiff to the Executive Engineer, PWD, Road North Division, Aizawl

Ext. P-4 is copy of application for compensation submitted by the plaintiff to the Hon'ble Minister, PWD

Ext. P-5 is a copy of letter Dt. 13/5/2002 sent to the plaintiff by the WW, PWD, Zone- I

Ext. P-6 is a copy of letter Dt. 30/4/2002 sent to the CE, PWD, Zone-I by the S.E. Central Circle, PWD declining the claim of the plaintiff

Ext. P-7 is a copy of letter sent to Director, LR & S Department by the plaintiff Dt. 20-07-2004

Ext. P-8 is a copy of letter sent to CE, Building Division, PWD Dt. 18/8/2004 by the Assistant Director of Survey, LR &S Department

Ext. P-9 is a copy of letter Dt. 10/9/2004 sent to the plaintiff by the Assistant Director of Survey, LR &S Department

Ext. P-10 is a copy of letter Dt. 2/9/2004 sent to Director, LR&S Department by the C.E., PWD Building

Ext. P-11 is a copy of Notice Dt. 16/9/2004 sent to the C.E. Building by the plaintiff

Ext. P-12 is a copy of letter Dt. 13/5/2005 sent to E.E., PWD, Road North Division by EAC for Deputy Commissioner, Aizawl District

Ext. P-13 is a copy of spot verification report Dt. 29.4.2005 prepared by Sub-Deputy Magistrate, Aizawl District

Ext. P-14 is a copy of sketch map showing the road passing through the land of the plaintiff

Ext. P-15 is a copy of letter Dt. 19/9/2005 sent to the plaintiff by the EAC, Aizawl for the Deputy Commissioner, Aizawl District

Ext. P-16 is a copy of letter Dt. 29/7/2005 sent to the Deputy Commissioner, Aizawl by EE, PWD, Aizawl Road North Division

Ext. P-17 is a copy of legal notice served by the plaintiff to the defendants

During cross examination, she stated that since 23.7.1999, the suit land was put in the name of the plaintiff. She did not know when the area covered by her LSC was developed by the defendants. She did not know that whether the previous owner of the suit land was awarded compensation or not. The claimed amount for compensation to the Government was owned assessed by her.

The **PW-2** stated in her examination in chief also knows and witnessed the version of the plaintiff in her plaint like purchase of the suit land and later encroachment.

During cross examination, she deposed that she knows only that the plaintiff had purchased the suit land. She did not know that whether the previous owner of the suit land was awarded compensation or not.

The **PW-3** stated in his examination in chief that the Local Administration Department had constructed foot path during 1996 by cutting across the land of the plaintiff. Later she knew that the Public Works Department constructed Chanmari Cemetery to Edentharr Truckable road during 2000. She further knows that the plaintiff submitted an application to the concerned authorities about encroachment of her suit land.

During cross examination, PW-3 stated that she did not know about purchase of the suit land by the plaintiff. She did not see when the LAD constructed a foot path. She did not know that whether the suit land is already compensated or not.

The **PW-4** in his examination in chief stated that the suit land was originally owned by the son of his aunt Mr. H. Laldawnghiana. The Local Administration Department had constructed foot path during 1996 by cutting across the land of the plaintiff. Later she knew that the Public Works Department constructed Chanmari Cemetery to Edentharr Truckable road during 2000. He witnessed that the PWD did not touch the land of the plaintiff for their road construction as the existing road along of the land of the plaintiff was wide enough for village road standard.

During cross examination, **PW-4** stated that since 2002, he dwelled at Edentharr, Aizawl but he did not have any documents from the Revenue Department ascertaining that the suit land is belonging to the plaintiff. As it was before his settlement at Edentharr, he did not have any personal knowledge on the action of LAD which he stated in his examination in chief.

For the defendants no. 4-7:

The defendants no. 4 -7 had produced only one witness namely- Smt. Lalhrangliani, Under Secretary to the Govt. of Mizoram, PWD (Herein after referred to as DW for defendants 4-7). In her examination in chief, she deposed that-

Ext. D-2 is written statement submitted by the PWD

Ext. D-3 is letter sent by the then SDO, PWD Dt. 22.4.2002

Ext. D-4 is letter Dt. 22.4.2002 sent to the SDO, PWD by the Village Council, Edenthur.

In her cross examination, she deposed that she did not visit the suit land but she knew that the road is cutting across the land of the plaintiff and also knows that no compensation was paid to the plaintiff till date.

For the defendant no. 8:

The defendant no. 8 had produced only one witness namely- Mr. R. Chalkhuma, Development Engineer, Local Administration Department, Govt. of Mizoram (Hereinafter referred to as DW for defendant no. 8). In his examination in chief, he stated that their Department have no record pertaining to funded or executed by them over the suit land in 1996. No documents of the plaintiff were elicited that the defendant no. 8 had cut across the land of the plaintiff. The road in question is now already metalled and is diversion from NH-54 and is within the purview of Public Works Department, Govt. of Mizoram. Ext. D-1 is Verification report. Ext. D-1 (a) is his signature.

In his cross examination, he further deposed that he went to the spot for spot verification of the disputes. He did not personally know that the land of the plaintiff was traversed by the instant road construction. On his spot verification, he found that the instant road was already metalled and maintained by the PWD.

### **TERMS OF ARGUMENTS**

Mr. W. Sam Joseph, learned counsel for the plaintiff after appreciating the minutes of oral evidences adduced in the proceedings submitted that it is not disputed that the land of the plaintiff is traversed by the public road constructed by the government of Mizoram and is inevitably liable to pay compensation if not revert back for the peaceful possession of the plaintiff.

On the other hand, Mr. R. Lalremruata, learned AGA fairly submitted that whilst the Revenue Department also arrayed as defendants clearly depicted that the suit land is encroached by the disputed road construction, he fails to delineate the liabilities as the LAD and PWD are in controversy on liabilities and defaulters.

### **FINDINGS**

#### **Issue No. 1**

#### **Whether the suit is maintainable in its present form and style**

A requisite court fees at Rs. 5000/- is paid by the plaintiff in his plaint. Meanwhile, verification supported by affidavit in paragraph wise is also made, the provisions of sub- rule (4) of rule 15 under Order VI of the CPC was therefore complied with. Moreover, prior legal notice is also served to the state defendants by the plaintiff. This issue is therefore decided in favour of the plaintiff as found no laches which can vitiate the proceedings whilst undisputedly, the plaintiff filed the suit with having cause of action and locus standi against the defendants.

## **Issue No. 2**

**Whether the plaintiff can be declared as the rightful owner of the land under LSC No. 1103/87 by having title, interest and possession of the said land**

As PWs 1 and 2 corroboratively deposed in their oral evidence and as the facet itself of Ext. P-1 viz. a copy of LSC No. 1103/87 undisputedly revealed, the plaintiff can be declared as the rightful owner of the land under LSC No. 1103/87 by having title, interest and possession of the said land.

## **Issue No. 3**

**Whether the land of the plaintiff under LSC No. 1103/87 was encroached and traversed by the defendants for construction of a road or not.**

As admitted by the lone DW for defendants 4-7 during her cross examination and as Ext. P-8 viz. verification of the plaintiff's land under LSC No. 1103/87 submitted by the Assistant Director of Survey (A), Land Revenue and Settlement Department for their Director to the Chief Engineer, Building, PWD, the motorable road constructed by the PWD had passed through the LSC No. 1103/87 belonging to the plaintiff. Undisputedly, it can be adjudicated that the land of the plaintiff under LSC No. 1103/87 was encroached and traversed by the defendants for construction of a road.

Moreover, Ext. P-13 viz. joint spot verification report held on 25.4.2005 duly prepared by the Sub-Deputy Magistrate, Aizawl District clearly depicted that the J.E. Road North Division, PWD, Mr. R. Zoramthanga, Surveyor, Revenue Department, the plaintiff and the said Sub-Deputy Magistrate performed the said joint spot verification and found that there existed a motorable road traversing through a plot of land under LSC No. 1103/87 belonging to the plaintiff with a total area of 0.11 Bigha, the area occupied by the motorable road on the same plot is 0.07 bigha by preparing sketch map which is cope with the fair written statements of defendants 2 and 3. Further suggested to pay compensation as not yet received by the owner of the suit land.

## **Issue No. 4**

**Whether the plaintiff is entitled to reliefs claimed. If so, to what extent and from whom.**

As per the findings reached as above and as law is well settled in the case of **Anand Singh & Anr. vs State Of U.P. & Ors.** decided on 28 July, 2010 in connection with Civil Appeal No. 2523 of 2008, wherein, the Supreme Court has held that-

“30. The power of eminent domain, being inherent in the government, is exercisable in the public interest, general welfare and for public purpose. Acquisition of private property by the

State in the public interest or for public purpose is nothing but an enforcement of the right of eminent domain. In India, the Act provides directly for acquisition of particular property for public purpose. Though right to property is no longer fundamental right but Article 300A of the Constitution mandates that no person shall be deprived of his property save by authority of law.”

The plaintiff will therefore entitle a relief which she claimed for compensation instead of directing the defendants to leave peaceful possession of the suit land to the plaintiff as very cogent that motorable road construction in the suit land is solely public interest by invoking the provision of the Land Acquisition Act with other necessary directions. Meanwhile, as State of Mizoram represented by the Chief Secretary is arrayed as defendant no. 1, it may be more appropriated to leave find out of the liabilities to the defendant no. 1 either the Public Works Department or the then Local Administration Department (Now allocated the subject matter to the Urban Development and Poverty Alleviation Department).

Also 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 further 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).”

In a nutshell, it is always the onerous duty of this court and the defendants viz. State of Mizoram to maintain and restore human rights like upon the instant plaintiff on her property as held in **Narmada Bachao Andolan vs State Of M.P. & Anr.** (supra.).

### **ORDER**

UPON hearing of parties and on the basis of the afore findings in various issues, it is hereby ORDERED and DECREED that the plaintiff is declared as the rightful owner of the land under LSC No. 1103/87 by having title, interest and possession of the said land. The defendant no. 10 viz. District Collector, Aizawl District, Aizawl is therefore directed to make assessment of the value of the suit property (ies) under LSC No. 1103/87 belonging to the plaintiff within thirty days from the date of this order and submit the same to the defendant no. 1 viz. Chief Secretary to the Govt. of Mizoram, the defendant no. viz. Chief Secretary to the Govt. of Mizoram is further directed to find out the Department who is liable to pay the said compensation either the Public Works Department or the then Local Administration Department (Now allocated the subject matter to the Urban Development and Poverty Alleviation Department) and clear all the compensation amount with interest in due course of time. Interest rate @ 6% per annum out of the total compensation amount will also be paid to the plaintiff with effect from 05-02-2010 (viz. Date of institution of the suit) by



the Department who is liable to pay compensation amount as fix by the Chief Secretary to the Govt. of Mizoram.

No order as to costs of the suit.

With this order, the case shall stand disposed of.

Give this copy to all concerned.

Given under my hand and seal of this court on this 30<sup>th</sup> July, 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. CS/11/2010, Sr. CJ (A)/

Dated Aizawl, the 30<sup>th</sup> July, 2012

Copy to:

1. Smt. Sanghmingthangi D/o Rualkhuma, Chanmari West, Aizawl through Mr. W. Sam Joseph, Adv.
2. The State of Mizoram Through the Chief Secretary to the Govt. of Mizoram, Aizawl through Mr. R. Lalremruata, AGA
3. The Secretary to the Govt. of Mizoram, Land Revenue and Settlement Department, Govt. of Mizoram, Aizawl through Mr. R. Lalremruata, AGA
4. The Director, Land Revenue and Settlement Department, Govt. of Mizoram, Aizawl through Mr. R. Lalremruata, AGA
5. The Secretary to the Govt. of Mizoram, Public Works Department, Mizoram, Aizawl through Mr. R. Lalremruata, AGA
6. The Chief Engineer, Public Works Department, Zone-1, Govt. of Mizoram, Aizawl through Mr. R. Lalremruata, AGA
7. The Superintending Engineer, Public Works Department, Central Circle, Govt. of Mizoram through Mr. R. Lalremruata, AGA
8. The Executive Engineer, Public Works Department, Road North Division, Aizawl, Govt. of Mizoram, Aizawl through Mr. R. Lalremruata, AGA
9. The Director, Local Administration Department, Govt. of Mizoram through Mr. R. Lalremruata, AGA
10. The Secretary to the Govt. of Mizoram, Local Administration Department through Mr. R. Lalremruata, AGA
11. The Deputy Commissioner/District Collector, Aizawl District, Aizawl through Mr. R. Lalremruata, AGA
12. The President, Village Council, Edenthlar- Aizawl through Mr. R. Lalremruata, AGA
13. P.A to Hon'ble District Judge, Aizawl Judicial District- Aizawl
14. Case record

PESKAR