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

CIVIL SUIT NO. 18 OF 2005

Plaintiffs:

1. Mr. C. Chawngkunga
   S/o Selchhunga
   Dawrpui Vengthar- Aizawl

2. Smt. Lalliankimi
   Dawrpui Vengthar
   Aizawl- Mizoram

By Advocate's : Mr. R. Thangkanglova

Versus

Defendants:

1. State of Mizoram
   Through the Chief Secretary to the
   Govt. of Mizoram

2. The Secretary to the Govt. of Mizoram
   Revenue Department

3. Director
   Land Revenue and Settlement Department
   Govt. of Mizoram

4. The Engineer in Chief
   Public Works Department
   Govt. of Mizoram, Aizawl

5. The Executive Engineer
   Public Works Department
   i/c Sairang-Lengpui Airport Road
   Aizawl- Mizoram

6. Assistant Settlement Officer- 1
   Aizawl District: Aizawl

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

Date of Arguments : 05-07-2012
Date of Judgment & Order : 09-07-2012

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

JUDGEMENT & ORDER

NUCLEUS OF THE CASE

This is a suit for realization of Rs. 51,39,672.00 with interest rate @ 12% per annum and solatium of 30% of the grand total of the compensation arising out of the land acquired by the state defendants for the construction of Sairang to Lengpui Airport road under Permit No. 4 of 1973 and No. 104 of 1973 which the Collector of Aizawl District refused to make assessment of the same by ignoring the claim of the plaintiffs. The plaintiffs have bamboo gardens along the Sairang-Lengpui Air Field road under the said Permits and were greatly damaged by the defendants when they constructed Sairang-Lengpui Air Field road.

The defendants 2, 4 and 7 on their joint written statements contested that there is no cause of action in favour of the plaintiffs and is barred by law of limitation, the suit is also bad for non-joinder of necessary parties. For the purpose of the instant land acquisition, all interested persons claimed of compensation, draft award was also prepared by the District Collector, Aizawl and sent to the Commissioner, Revenue Department under No. F. 14011/136/98- DC/97 Dated 5-2-1959, the Commissioner of Revenue Department returned the said Draft Award No. 6 of 1973 as Permit No. 104 of 1973 belonging to Mr. C. Chawngkunga and Permit No. 4 of 1973 of Lalliankimi have no legal status as they failed to convert into Periodic Patta in violation of section 6 of the Mizo District (Agricultural Land) Act, 1963 and section 1.3 of Chapter 11 of the Mizo District (Agricultural Land) Rules 1971 and Government Notification No. LRR/59/73-81/129 Dt. 27. 4.1981. Thus, prayed to dismiss of the suit with costs.

The defendants 3, 5 and 6 on their joint written statements also contested that there is no cause of action in favour of the plaintiffs and is barred by law of limitation, the suit is also bad for non-joinder of necessary parties. After duly compliance with the Land Acquisition Act, 1894 like notice etc., all interested persons claimed of compensation, draft award was also prepared by the District Collector, Aizawl and sent to the Commissioner, Revenue Department under No. F. 14011/136/98- DC/97 Dated 5-2-1959, the Commissioner of Revenue Department returned the said Draft Award No. 6 of 1973 as Permit No. 104 of 1973 belonging to Mr. C. Chawngkunga and Permit No. 4 of 1973 of Lalliankimi have no legal status as they failed to convert into Periodic Patta in violation of section 6 of the Mizo District (Agricultural Land) Act, 1963 and section 1.3 of Chapter 11 of the Mizo District (Agricultural Land) Rules 1971 and Government Notification No. LRR/59/73-81/129 Dt. 27. 4.1981. Thus, prayed to dismiss of the suit with costs.

ISSUES

Issues were framed on 5/6/2006 and amended towards fructification of disputes as follows-

1. Whether the present suit is maintainable in its present form and style
2. Whether there was insufficient court fees in the plaint
3. Whether the plaintiffs has cause of action/locus standi to file the instant suit or not.
4. Whether the suit is barred by law of limitation or not
5. Whether the suit is bad for non-joinder of necessary parties
6. Whether the plaintiffs are entitled to the relief claimed or not. If so to what extend

BRIEF ACCOUNT OF EVIDENCE

For the plaintiffs:

The plaintiffs had produced the following witnesses namely-

1. Mr. C. Chawngkunga S/o Selchhunga, Dawrpui Vengthar, Aizawl (Hereinafter referred to as PW-1)
2. Smt. Lalliankimi D/o Lalphunga, Dawrpui Vengthar- Aizawl (Hereinafter referred to as PW-2)
3. Mr. J.H. Rothuama S/o Rev. Pasena, Vaivakawn, Aizawl (Hereinafter referred to as PW-3)

The **PW-1** in his examination in chief deposed that he is the plaintiff no. 1 in the instant case, when the defendants constructed Lengpui Airfield road in 1998-2000, the motorable road passed through the land of the plaintiffs destroying various teak trees, bamboos and others without giving compensation. Legal notice u/s 80 of CPC was duly served to the defendants. Besides market value of teak trees, bamboos etc., the defendants are liable to pay cost of the garden land they have destroyed at the rate of Rs. 25/- per Sq. feet and cost of this suit. Assessment of value of trees, bamboos, land are already made in the plaint. He further deposed that-

Ext. P-1 is the plaint

Ext. P-1 (a) and (c) are the signatures of the plaintiffs

Ext. P-3 is a copy of Permit No. 104 of 1973 belonging to Mr. C. Chawngkunga

Ext. P-4 is a copy of Notification issued by the Collector, Aizawl District

Ext. P- 5 and 6 are a copy of letter sent to the District Collector, Aizawl by the plaintiffs

Ext. P- 7 is a copy of Legal Notice

Ext. P-8 is a copy of reply of legal notice

Ext. P-9 is a copy of letter sent to the Director, Revenue Department by the plaintiff no. 1

During his cross examination, the PW-1 admitted as a fact that the filed the suit for realization of Rs. 41,04,672/-. The holder of Permit No. 4 of 1973 is his wife namely Smt. Lalliankimi which is for cultivation of bamboo and teak trees. Although he specified the number of bamboo trees, teak trees destroyed by the defendants, he did not have any documentary proof to reveal that they actually destroyed or not. He admitted that Permit No. 4 of 1973 was conditioned with validity of seven years. He also admitted the stringent conditions in Permit No. 104 of 1973 for planting of crops. They never converted their Permit into Periodic Pattas. He also admitted that they claimed Rs. 41,04,672/- as compensation in their legal notice.

The **PW-2** in her examination in chief stated that she is the plaintiff no. 2 in the instant case, when the defendants constructed Lengpui Airfield road in 1998-2000, the motorable road passed through the land of the plaintiffs destroying various teak trees, bamboos and others without giving compensation. Legal notice u/s 80 of CPC was duly served to the defendants. Besides market value of teak trees, bamboos etc., the defendants are liable to pay cost of the garden land they have destroyed at the rate of Rs. 25/- per Sq. feet and cost of this suit. Assessment of value of trees, bamboos, land are already made in the plaint. She further deposed that-

Ext. P-1 is the plaint

Ext. P-1 (a) and (c) are the signatures of the plaintiffs

Ext. P-3 (a) is a copy of Permit No. 4 of 1973 belonging to her

Ext. P-4 is a copy of Notification issued by the Collector, Aizawl District

Ext. P- 5 and 6 are a copy of letter sent to the District Collector, Aizawl by the plaintiffs

Ext. P- 7 is a copy of Legal Notice

Ext. P-8 is a copy of reply of legal notice

Ext. P-9 is a copy of letter sent to the Director, Revenue Department by the plaintiff no. 1

During cross examination, the PW-2 admitted as a fact that their claimed teak, trees and bamboos are based on their mere presumption as they were not present on the spot at the time of clearing of construction.

The **PW-3** in his examination in chief stated that he know both the plaintiffs having 28 bighas and 20 bighas of teak and bamboo gardens which were selected for NLUP and he also saw the said gardens so many times as it passed through by the Lengpui Airport road. The claimed amount of the plaintiffs in their plaint are reasonable. Although the plaintiff no. 1 often applied compensation, it was refused by the authorities.

During cross examination, the PW-3 admitted the fact that although he did not know that the plaintiff have landed documents, they saw their garden at Lengpui Airport road. He never saw their garden passes also. He also admitted as a fact that he just know the applications of the plaintiffs for compensation amount.

In his re-examination, he further deposed that although he have seen the destruction for many times, he did not make any spot verification.

For the defendants:

The defendants had produced the following witnesses namely –

1. Shri R.L Rindika, Superintendent, LR & S Dept. Govt. of Mizoram. (Hereinafter referred to as DW-1)
2. Mr. Lalhmasaa, Executive Engineer, Public Works Department (Hereinafter referred to as DW-2)

The **DW-1** in his examination in chief stated that the acquisition of land required for consruction of Sairang to Lengpui road was executed under the Land Acquisition Act, 1894, notification u/s 4 (1) of the said Act was also duly issued under Memo No. K. 15011/33/95-REV Dt. 1/6/1998. Thereby, notice u/s 9 (1) of the said Act was also issued to all interested persons. All interested persons therefore claimed of compensation, draft award was also prepared by the District Collector, Aizawl and sent to the Commissioner, Revenue Department under No. F. 14011/136/98- DC/97 Dated 5-2-1959, the Commissioner of Revenue Department returned the said Draft Award No. 6 of 1973 as Permit No. 104 of 1973 belonging to Mr. C. Chawngkunga and Permit No. 4 of 1973 of Lalliankimi have no legal status as they failed to convert into Periodic Patta in violation of section 6 of the Mizo District (Agricultural Land) Act, 1963 and section 1.3 of Chapter 11 of the Mizo District (Agricultural Land) Rules 1971 and Government Notification No. LRR/59/73-81/129 Dt. 27. 4.1981.

During cross examination, the DW-1 admitted that he never visited the suit gardens. He did not know whether there were bamboos and teak trees in the gardens of the plaintiffs or not. Collection of donation by the government officials from the persons who are supposed to effect by the instant land acquisition is beyond is his knowledge.

In his re-examination, he clarified that the date of Notification No. F. 14011/136/98- DC/97 should be Dated 5-2-1999 instead of 1959.

The **DW-2** in his examination in chief deposed that the acquisition of land required for consruction of Sairang to Lengpui road was executed under the Land Acquisition Act, 1894, notification u/s 4 (1) of the said Act was also duly issued under Memo No. K. 15011/33/95-REV Dt. 1/6/1998. Thereby, notice u/s 9 (1) of the said Act was also issued to all interested persons. All interested persons therefore claimed of compensation, draft award was also prepared by the District Collector, Aizawl and sent to the Commissioner, Revenue Department under No. F. 14011/136/98- DC/97 Dated 5-2-1959, the Commissioner of Revenue Department returned the said Draft Award No. 6 of 1973 as Permit No. 104 of 1973 belonging to Mr.

C. Chawngkunga and Permit No. 4 of 1973 of Lalliankimi have no legal status as they failed to convert into Periodic Patta in violation of section 6 of the Mizo District (Agricultural Land) Act, 1963 and section 1.3 of Chapter 11 of the Mizo District (Agricultural Land) Rules 1971 and Government Notification No. LRR/59/73-81/129 Dt. 27. 4.1981. He further deposed that-

Ext. D-1 is a copy of Notification Dt. 1/4/1998

Ext. D-2 is a copy of Notification Dt. 1/4/1998 (Mizo Version)

Ext. D-3 is a copy of Hriattirna Dt. 16/4/1998

Ext. D-4 is a copy of Notification Dt. 1/6/1998

Ext. D-5 is a copy of Notice Dt. 22/6/1998

Ext. D-6 is a copy of Letter issued by DC Dt. 5/2/1999

Ext. D-7 is a copy of letter issued by Secy. Revenue Department Dt. 8/3/1999

Ext. D-8 is a copy of Notification Dt. 27/4/1981

Ext. D-9 is written statement

In his cross examination, he further deposed that he did not know whether the plaintiffs were allotted the land under Jhum control policy/Act. He did not know whether the plaintiffs had submitted their claims to the authority based on several notifications for land acquisition. He did not know the exact location of the land of the plaintiffs. He did not know whether the land of the plaintiffs were cancelled or not.

TERMS OF RIVALRY

Mr. R. Thangkanglova, learned counsel for the plaintiffs argued that the land of the plaintiffs were allotted under the NLUP (New Land Use Policy/Programme). The law of limitation does not have any application in the state of Mizoram. More so, he admitted that there is inadequate court fees in the plaint and also admitted that the plaint is filed without proper verification supported by affidavit.

On the other hand, Miss Bobita Lalhmingmawii remain stood that the plaintiffs have no cause of action as they did not possess any valid landed passes/documents as already submitted in their written statements which supported by their evidence.

FINDINGS

Issue No. 1
Whether the suit is maintainable in its present form and style

Admittedly the plaint is merely accompanied by simply verification without affidavit. In this lacunae, the provisions of sub- rule (4) of rule 15 under Order VI of the CPC was made effective after institution of the instant suit viz. with effect from 1-7-2002 by Act No. 46 of 1999 which is before filing of the instant suit. The Constitution Bench of the Supreme Court in

State of Bombay v. Purushottam Jog Naik, AIR 1952 SC 317. Vivian Bose, J. speaking for the Court, held:

> "We wish, however, to observe that the verification of the affidavits produced here is defective. The body of the affidavit discloses that certain matters were known to the Secretary who made the affidavit personally. The verification however states that everything was true to the best of his information and belief. We point this out as slipshod verifications of this type might well in a given case lead to a rejection of the affidavit. Verification should invariably be modelled on the lines of Order 19, Rule 3, of the Civil Procedure Code, whether the Code applies in terms or not. And when the matter deposed to is not based on personal knowledge the sources of information should be clearly disclosed."

The Constitution Bench of the Supreme Court again in **A. K. K. Nambiar v. Union of India and another**, AIR 1970 SC 652, held as follows:

> "The appellant filed an affidavit in support of the petition. Neither the petition nor the affidavit was verified. The affidavits which were filed in answer to the appellant's petition were also not verified. The reasons for verification of affidavits are to enable the Court to find out which facts can be said to be proved on the affidavit evidence of rival parties. Allegations may be true to knowledge or allegations may be true to information received from persons or allegations may be based on records. The importance of verification is to test the genuineness and authenticity of allegations and also to make the deponent responsible for allegations. In essence verification is required to enable the Court to find out as to whether it will be safe to act on such affidavit evidence. In the present case, the affidavits of all the parties suffer from the mischief of lack of proper verification with the result that the affidavits should not be admissible in evidence."

More so, recently in **Sinnamani & Anr. vs G. Vettivel & Ors.** decided on 9th May, 2012 in connection with Civil Appeal No. 4368 of 2012 @ SLP (Civil) No.11825 of 2008, Hon'ble Supreme Court has held that-

> "11. A suit can be instituted by presentation of a plaint and Order IV and VII C.P.C. deals with the presentation of the plaint and the contents of the plaint. Chapter I of the Civil Rules of Practice deals with the form of a plaint. When the statutory provision clearly says as to how the suit has to be instituted, it can be instituted only in that manner alone, and no other manner."

Thus, a plaint without supporting verification and affidavit by a paragraph wise is irregularities which can vitiate the proceedings like in the instant plaint. Moreover, there is claimed two different quantum of amount

in the plaint as admitted by the PW-1, in the first page of the plaint, the claimed amount is Rs. 41,04,672/- and in the relief portion, it was sought Rs. 51,39,672/-. In the Ext. P-7 viz. legal notice, the claimed of the plaintiff as admitted by PW-1 is Rs. 41,04,672/-. In this catena, law is well settled 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-

> "7. It is a settled proposition of law that a party has to plead its case and produce/adduce sufficient evidence to substantiate the averments made in the petition and in case the pleadings are not complete the Court is under no obligation to entertain the pleas."

Thus, vagueness of the relief sought and lack of proper verification like paragraph wise to be supported by affidavit in the plaint is not curable in the present case as held in **Sinnamani & Anr. vs G. Vettivel & Ors.** (supra.). Failure to comply the rigour provision of the Code of Civil Procedure, 1908 is not sustained in law as recently held in **Rasiklal Manickchand Dhariwal & Anr. vs M/S M.S.S. Food Products** decided on 25 November, 2011 in connection with Civil Appeal No. 10112 of 2011 (Arising out of SLP (Civil) No. 27180 of 2008).

Issue No. 2

Whether there is insufficient court fees in the plaint

As fairly admitted by learned counsel for the plaintiffs, the plaintiffs paid only Rs. 14/- of court fees which is in violation of the Court Fees (Mizoram Amendment) Act, 1996 (Act No. 5 of 1997). No need of detail delving on the instant crux as undisputed.

Issue No. 3

Whether the Plaintiff has any Locus Standi/cause of action to file the suit against the Defendants.

The very concept of *locus standi* is dealt 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, wherein, 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.

> …… 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."

Likewise, the very terminology of cause of action is also streak out 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."

Towards the above settled law, Ext. P-3 viz. Permit No. 104 of 1973 was issued by the Assistant Settlement Officer u/s 3 of the Mizo District (Agricultural Land) Act, 1960, the area comprised of 28 bighas which was issued on 1st Oct., 1973 issued in favour of the plaintiff no. 1.

Meanwhile, Ext. P-3 (a) viz. Permit No. 4 of 1973 was issued to the plaintiff no. 2 with an area of 20 bighas, it was permitted to start bamboo and teak by mentioning the location that "Chawngkunga Huan chhak Pu Lalkunga riin". No other exact location was mentioned in the Permit. It was also issued by the Assistant Settlement Officer on 14/11/1973 but no legal basis is found on its facet. Undisputedly, under condition no. 2, this permit was valid for seven years (viz. till 14/11/1980). In the condition no. 4, it was also stated that "If the permit holder rather want to shifting jhuming cultivation before expiry of this permit, he should surrender permit to the government positively". As admitted by PWs, there was no renewal of the said permits.

However, Ext. D-8 viz. Notification No. LRR.59/73-81/129: Dated 27th April, 1981 issued by the then Ex. Officio Secretary to the Govt. of Mizoram, Revenue, Excise and Taxation Department, it was imposed that-

> *"As provided under Rules 13 (1) & (2) of the Mizo District (Agricultural land) Rules, 1971, all passes/permits previously granted by the competent authorities under the Mizo District*

(Agricultural Land) Act, 1963 should be converted into Periodic Patta within 6 months from the date of issue of this order within the districts of Aizawl and Lunglei.

It is hereby notified to all concerned that pass/permit held by them should be submitted to their respective Deputy Commissioners within the time limit"

As admitted by the PWs, the permits of the plaintiffs were not converted into Periodic Pattas in compliance with the said Notification (Ext. D-8). Although learned counsel for the plaintiffs and the PW-3 claimed that the permits of the plaintiffs were issued for the purpose of NLUP. Although lack of evidence, as per the New Land Use Policy (NLUP) Manual, 2009 which is approved by Government of Mizoram Vide Letter No. G. 28014/21/2009-AGR of 14th September 2009, Chapter- I, paragraph no. 6 indicates that the previous NLUP was started from 1984 to 1985 and again revised from 2009-2010 as revealed by the budget speech of Hon'ble Chief Minister, Mizoram on Monday, the 23rd March, 2009 Aizawl for 2009-2010 (Interim Budget), he mentioned that-

"As duly incorporated in the election manifesto, Revised New Land Use Policy (NLUP) will be the flagship scheme of the Government as poverty alleviation and development of the poor population in the State. For this purpose, we propose for interim allocation of Rs. 100.00 crore in the budget."

Moreover, the permits of the plaintiffs did not bear any purpose whether it was for NLUP or not. The plea of the plaintiffs on that point is therefore not sustainable.

At the time of oral arguments, learned counsel for the plaintiffs stated that during acquisition proceedings of the suit land, all the stake holders were imposed to collect money for bribe of the concerned authorities. Being a Minister, Govt. of Mizoram, the plaintiff no. 1 refused to pay such bribe money, his name was therefore excluded in the land acquisition proceedings. Under paragraph no. 5 of the plaint, the plaintiffs stated that the Collector fails to response the claim of the plaintiffs. However, as per the written statements of the defendants supported by their oral evidence, Ext. D-6 Viz. Draft Award No. 6 of 1998, under Sl. No. 23, the name of the plaintiff no. 1 was also put for his Permit No. 104 of 1973 which was done by the District Collector, Aizawl District. This grounds itself is no basis and no locus standi. As per Ext. D-7 issued by the Commissioner/Secretary to the Govt. of Mizoram, Revenue Department to the Deputy Commissioner, Aizawl, due to failure to convert the Permit into Periodic Patta, the claim of the plaintiffs mentioned in Draft Award No. 6 of 1998 was turned down.

To epitomize, the plaintiffs by violation of notification duly made under statutory laws like Ext. D-8 viz. Notification No. LRR.59/73-81/129: Dated 27th April, 1981 should not have cause of action and locus standi to file the suit on such non-est and invalid landed documents.

Issue No. 4

Whether the suit is barred by law of limitation or not

No doubt, the law of limitation like in the instant case where the state are put as parties is applicable in the state of Mizoram as held by the Hon'ble Gauhati High Court in **Lalchawimawia & Ors. Vs. State of Mizoram** decided on 5-5-1999 in connection with WP (C) No. 4 of 1996 reported in 1999 (3) GLR 100 and the later case in **L. Biakchhunga vs State Of Mizoram And Ors**. decided on 1/8/2005 and reported in (2006) 2 GLR 610.

However, the plaintiffs in their plaint failed to disclose the exact date of cause of action of the instant suit specifically whether it is barred by law of limitation or not, this itself is contrary to law as held in **Rasiklal Manickchand Dhariwal & Anr. vs M/S M.S.S. Food Products** (supra.). Meanwhile, the plaintiffs may be cause of action on 5th Feb., 1999 when the Government turned down their claim as per Ext. D-6. This issue is therefore decided in favour of the plaintiffs.

Issue No. 5
Whether the suit is bad for non-joinder of necessary parties

Before looking to the case at hand, the well settled law is epitomized in **Iswar Bhai C. Patel & Bachu Bhai Patel Vs. Harihar Behera & Anr**. decided on 16/03/1999 reported in 1999 AIR 1341, 1999 (1) SCR 1097, 1999 (3) SCC 457, 1999 (2) SCALE 108, 1999 (2) JT 250, it was held that-

> "These two provisions, namely, Order 1 Rule 3 and Order 2 Rule 3 if read together indicate that the question of joinder of parties also involves the joinder of causes of action. The simple principle is that a person is made a party in a suit because there is a cause of action against him and when causes of action are joined, the parties are also joined."

And 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 observed thus-

> "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."

Under paragraph no. 5 of the plaint, the plaintiffs stated that the Collector fails to response the claim of the plaintiffs, the entire relief sought is on the basis of the Land Acquisition Act, 1894 where the Collector was

the main responsible authority. If it be so, failure to implead, District Collector, Aizawl District as defendant is bad in law which may obviously leads to futile proceedings till execution if the suit may also be decreed in favour of the plaintiffs. This issue is therefore decided in favour of the defendants.

Issue No. 6
Whether the plaintiffs are entitled to the relief claimed or not. If so to what extend

Since this court in the instant proceedings fails to see locus standi/cause of action in favour of the plaintiffs against the defendants, lack of requisite court fees, improper pleadings like lack of maintainability and lack of clear quantum of relief sought and due to non-joinder of necessary parties. No entitlement in favour of the plaintiffs is indispensably fails to see.

ORDER

UPON hearing of parties and on the basis of the afore findings in various issues, the suit is hereby inevitably dismissed due to no cause of action/locus standi in favour of the plaintiffs against the defendants, non-joinder of necessary parties, improper pleadings like lack of maintainability and lack of clear quantum of relief sought and insufficient court fees in the plaint.

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 9th 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/18/2005, Sr. CJ (A)/ Dated Aizawl, the 9th July, 2012

Copy to:

1. Mr. C. Chawngkunga S/o Selchhunga, Dawrpui Vengthar- Aizawl through Mr. R. Thangkanglova, Advocate

2. Smt. Lalliankimi, Dawrpui Vengthar, Aizawl- Mizoram through Mr. R. Thangkanglova, Advocate
3. State of Mizoram Through the Chief Secretary to the Govt. of Mizoram through Mr. R. Lalremruata, Advocate
4. The Secretary to the Govt. of Mizoram, Revenue Department through Mr. R. Lalremruata, Advocate
5. Director, Land Revenue and Settlement Department, Govt. of Mizoram through Mr. R. Lalremruata, Advocate
7. The Engineer in Chief, Public Works Department, Govt. of Mizoram, Aizawl
8. The Executive Engineer, Public Works Department, i/c Sairang-Lengpui Airport Road, Aizawl- Mizoram
6. Assistant Settlement Officer- 1, Aizawl District: Aizawl through Mr. R. Lalremruata, Advocate
7. P.A. to Hon'ble District Judge, Aizawl Judicial District- Aizawl
8. Case record

PESKAR