

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

DECLARATORY SUIT NO. 04 OF 2010

Plaintiff:

Mr. C. Dailova  
S/o Chheuva (L)  
ITI Veng, Aizawl

*By Advocates*

: 1. Mr. L. H. Lianhrima  
2. Mr. Lalhriatpuia

*Versus*

Defendants:

1. The State of Mizoram  
Through the Chief Secretary  
Govt. of Mizoram
2. The Secretary to the Govt. of Mizoram  
Revenue Department
3. The Director  
Land Revenue and Settlement Department  
Govt. of Mizoram
4. The Assistant Settlement Officer - I  
Aizawl District: Aizawl
5. Upa C. Lalhmingthanga  
Chairman, Isua Krista Kohhran, ITI Veng  
Aizawl
6. The Secretary  
Isua Krista Kohhran, ITI Veng, Aizawl

*By Advocates:*

For the defendants Nos. 1-4	: 1. Mr. R. Lalremruata, AGA 2. Miss Bobita Lalhmingmawii, AGA
For the defendants Nos. 5&6	: 1. Mr. W. Sam Joseph 2. Mr. Zochhuana 3. Mr. Hranghmingthanga Ralte 4. F. Lalengliana 5. Mr. Francis V.L. Zuala 6. Mr. C. Lalfakzuala

Date of Arguments : 09-07-2011  
Date of Judgment & Order : 13-07-2012

**BEFORE**

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

**JUDGMENT & ORDER**

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**NUCLEUS OF THE CASE**

This is a suit for declaration that the plaintiff Mr. C. Dailova is the legal and lawful owner of LSC No. 104402/01/176 of 2002 issued with the approval of the Govt. of Mizoram under No. K. 52011/80/96- REV Dated 5<sup>th</sup> Feb., 2002 which was purchased from the defendants 5 and 6 on 2/5/2000 from their Pass No. 43/95 in consideration of Rs. 1,30,000/- by executing 'Sale Deed'. The defendant no. 3 later issued cancellation order of the Misc. Land Lease No. 43 of 1995 under No. C. 11040/MLL/IKK/ITI/01- DTE (REV)/Loose Dt. 19<sup>th</sup> March, 2002. The prayer of the plaintiff in the concluding submissions reads as-

- (a) A decree declaring the plaintiff as the legal and lawful owner of LSC No. 104402/01/176 of 2002 issued with the approval of the Govt. of Mizoram under No. K. 52011/80/96- REV Dated 5<sup>th</sup> Feb., 2002 which is purchased from the defendant No. 5 and 6 for Rs. 1,30,000/- in the presence of reliable witnesses
- (b) A decree declaring that the order passed and issued No. C. 11040/MLL/IKK/ITI/01- DTE (REV)/Loose Dt. 19<sup>th</sup> March, 2002 by the defendant No. 3 is illegal and is to be set aside/quashed.
- (c) A decree directing the defendants are liable to pay an amount of Rs. 5 lakhs on account of mental suffering, agony and unnecessary harassment of the plaintiff
- (d) Costs of the suit in favour of the plaintiff
- (e) Any other relief which this court deems fit and proper.

After filing of written statements by the defendants and also preferred counter claim by the defendants Nos. 5&6 where the plaintiff also submitted written statements on counter claim and after fling of documents, inspection, discovery and admission is done, as prayed by Mr. W. Sam Joseph, Ld. Counsel for the defendants Nos. 5&6 and making reliance in the Supreme Court observations in the case of **Vinod Seth vs Devinder Bajaj & Anr.** decided on 5<sup>th</sup> July, 2010 in connection with Civil Appeal No. 4891 of 2010 [Arising out of SLP [C] No.6736 of 2009], preliminary issues were framed in the followings and adjudicated in favour of the plaintiff on 02-02-2011 with reasoned orders.

- (1) Whether the suit is maintainable as Declaratory Suit
- (2) Whether the suit is barred by non-compliance of S. 80 of CPC

### (3) Whether deficiency of requisite court fees

The defendants 1-4 in their joint written statements stated that as the suit land was merely Lease, the plaintiff was not supposed to purchase the same and the defendants 5 and 6 as lessee did not have rights to transfer of the suit land. By showing mercy, the government of Mizoram approved the application of the plaintiff for conversion of DPL Misc 43/95 into House Pass for the plaintiff. Although impugned order under No. C. 11040/MLL/IKK/ITI/01- DTE (REV)/Loose Dt. 19<sup>th</sup> March, 2002 was passed, it was inoperative as mutation of the said LSC was made on 23.9.2004. Thus, prayed to dismiss of the suit.

The defendants 5 and 6 in their written statements contended that before 1994, the peoples of Republic Veng and ITI veng locality were worshipping in the Unit Church of Isua Krista Kohhran (IKK) at ITI veng as they were a part of Isua Krista Kohhran Kross sen. It was divided into two units during Christmas of 1994 namely- Isua Krista Kohhran, ITI Veng and Isua KIRSTA Kohhran Republic/ITI but remain worshipped at ITI. After divided into two, as applied by the ITI Veng Unit, DPL Misc 43/95 was issued and the original copy of the same was also in possession of the defendants 5 and 6. Without the knowledge of the defendants 5 and 6, the said Isua KIRSTA Kohhran Republic/ITI sold the suit land by a forged pass although caution was taken by the defendants 5 and 6 even through local daily newspapers. As soon as they knew the same, they lodged a complaint to the Revenue authorities. Upa K.C. Zoramchhana was also thereby ex-communicated on that reasons.

The defendants 5 and 6 rather filed counter claim petition that (a) a decree be passed declaring that the plaintiff has no locus standi to file the suit and the prayer of the plaintiff be rejected (b) a decree be passed declaring that the sale deed annexed in the plaint as Annexure-I be declared as null and void (c) a decree be passed declaring that the actions of the defendants 1 -4 on the basis of the said illegal sale deed and other letters submitted by the unauthorized persons be treated as null and void (d) a decree be passed setting aside/cancelling the orders under Letter No. K. 52011/80/96- REV Dated 5<sup>th</sup> Feb., 2002 and R. 11040/MLL/IKK/ITI/02-DTE (REV) Dt. 18<sup>th</sup> Feb., 2002 (e) a decree be passed declaring that the DPL Pass No. 43 of 1995 is valid and the defendants 5 and 6 have the right over the said property during the Lease period. (f) by way of mandatory and permanent injunction the plaintiff and the defendants 1-4 be restrained from doing any act detrimental to the interest of the defendants 5 and 6 as regards the immoveable property covered by the DPL Pass No. 43 of 1995 (g) a decree be passed for any other relief which this court deems fit and proper and (h) cost of the suit.

### **ISSUES**

The following issues were therefore framed on 7/2/2011 namely-

1. Whether the suit is maintainable or not.
2. Whether the “Inhmun Inleina” Dt. 2/5/2000 executed by IKK, ITI Veng, Aizawl and the plaintiff is legally valid or not

3. Whether the plaintiff is entitled to the relief claimed or not. If so, to what extend
4. Whether the counter claim filed by defendants 5 and 6 is maintainable or not.
5. Whether the defendants 5 and 6 are entitled to the relief in their counter claim. If so, to what extend.

### **BRIEF ACCOUNT OF EVIDENCE**

#### For the plaintiff:

The plaintiff had produced the following witnesses namely-

1. Mr. C. Dailova S/o Chheuva (L), ITI Veng, Aizawl (Hereinafter referred to as PW-1)
2. Upa R. Lalrinkima, Chairman, IKK, Republic/ITI Veng (Hereinafter referred to as PW-2)
3. Upa Lalrinawma, Secretary, IKK, Republic/ITI Veng (Hereinafter referred to as PW-3)

The **PW-1** in his examination in chief mainly reiterated his versions in the plaint being the plaintiff. He further deposed that-

Ext. P-1 is his plaint  
Ext. P-1 (a) (b) and (c) are his signatures  
Ext. P-2 is a copy of Inhmun Inleina Dt. 2/5/2000  
Ext. P-3 is a copy of letter Dt. 28-05-2000  
Ext. P-4 is a copy of letter Dt. 30<sup>th</sup> May, 2000  
Ext. P-5 is a copy of letter No. S. 11011/5/2000- LSC/DTE (REV)/L-103 Dt. 20<sup>th</sup> June, 2000  
Ext. P-6 is a copy of letter No. K. 52011/80/96- REV Azl. 5<sup>th</sup> Feb., 2002  
Ext. P-7 is a copy of cancellation order Dt. 18<sup>th</sup> Feb., 2002  
Ext. P-8 is a copy of letter Dt. 8<sup>th</sup> Jan., 2010  
Ext. P-9 is a copy of letter No. R. 11040/7/MLL/IKK/ITI/02-DTE (REV)/61 Dt. 27<sup>th</sup> Jan., 2010  
Ext. P-10 is a copy of LSC No. 104402/01/176 of 2002  
Ext. P-11 is a copy of letter No. R. 11040/MLL/IKK/ITI/01-DTE (REV)/Loose Dt. 14<sup>th</sup> March, 2002  
Ext. P- 12 to 16 are certificate issued by F. Vankunga, Larinmawia, Thanchungnungi, Engzami and Pakunga (Objected by counsel for defts 5 and 6)  
Ext. P-17 is a copy of letter Dt. 26-04-2000 (Objected by counsel for defts 5 and 6)

In his cross examination by learned AGA, although he saw a copy of pass, he was not given a copy of pass which he purchased. He purchased the suit land from Isua Krista Kohhran Republic/ITI and he did not know the exact particulars of the holder of the same whether in the name of Isua Krista Kohhran Republic/ITI or Isua Krista Kohhran ITI. He did not know whether the said pass is transferable or not. He admitted that the Isua

Krista Kohhran ITI was split into two and Mr. Lalhmingthanga, Chairman, Isua Krista Kohhran ITI initiated against his purchased pass. As he did not know the stay order, he developed the suit land. He claimed that the stay order was not valid order.

In his cross examination by learned counsels for the defendants 5 and 6, he deposed admitted that he had received Ext. P-11 in March, 2002 and in violation of the said order, he developed the suit land.

The **PW-2** in his examination in chief deposed that as they intended to construct church building in another suitable land and as requested by them, the plaintiff has purchased the suit land on 2/5/2000 by executing a Sale Deed and also fully received the amount @ Rs. 1,30,000/-. They later submitted their pass to the government and as they solicited to the government, the same was converted into House site LSC in favour of the plaintiff. Ext. P- 2 (b), Ext. P-3 (a) and Ext. P-4 (a) are his signatures.

In his cross examination, he deposed that he was a member of IKK since 1994. He did not know who approached the Revenue Department for obtaining the suit land. He was the Chairman of IKK Republic/ITI during 2000. He denied that the original copy of the said DPL Pass No. 43 of 1995 was in the custody of IKK, ITI.

The **PW-3** in his examination in chief deposed that as they intended to construct church building in another suitable land and as requested by them, the plaintiff has purchased the suit land on 2/5/2000 by executing a Sale Deed and also fully received the amount @ Rs. 1,30,000/-. They later submitted their pass to the government and as they solicited to the government, the same was converted into House site LSC in favour of the plaintiff. Ext. P- 2 (c), Ext. P-3 (b) and Ext. P-4 (b) are his signatures.

In his cross examination, he admitted that DPL Pass No. 43 of 1995 was issued in the name of IKK, ITI not in the name of IKK Republic/ITI. He was the Secretary of IKK Republic/ITI during 2000.

For the defendant no. 1-4:

The defendants 1-4 had produced only one witness namely- Mr. R.L. Rindika, Superintendent, Directorate of Land Revenue and Settlement, Govt. of Mizoram (Hereinafter referred to as DW for depts 1-4). In his cross examination, he deposed that although the house site LSC was issued in favour of the plaintiff with the approval of the government, stayed order was issued as complaint by the IKK, ITI, Aizawl. Ext. D-13 is their written statement, Ext. D- 13 (a) is the signature of Mr. K. Sangthuama, Under Secretary, Revenue Department.

In his cross examination, he deposed that DPL Pass No. 43 of 1995 was cancelled as surrendered by the lease holder in original form. He admitted that DPL Pass No. 43 of 1995 was issued in the name of Secretary, IKK, ITI Veng.

For the defendants 5 and 6:

The defendants 5 and 6 had produced the following witnesses namely-

1. Upa C. Lalhmingthanga S/o Khuangthiauva (L), Luangmual, Aizawl (Hereinafter referred to as DW-1 for defts 5 and 6)
2. Upa Zosangzuala S/o Lalluna (L), ITI Veng, Aizawl (Hereinafter referred to as DW-2 for defts 5 and 6)
3. Upa H.C. Thanchungnunga S/o Zaliana (L), ITI Veng, Aizawl (Hereinafter referred to as DW-3 for defts 5 and 6)

The **DW-1 for defts 5 and 6** in his examination in chief deposed that he is the Chairman of IKK, ITI Veng since the IKK church was established in 1994 at ITI veng and also local church elder till 2002. He thereby mainly affirmed their written statements and their counter claim petitions. He further deposed that-

Ext. D-1 is a copy of Certificate of Land Lease under Misc. Pass No. 43 of 1995

Ext. D-2 is a copy of "Romei" Daily Newspaper Dt. 22.5.2000

Ext. D-3 is a copy of "Mizo Arsi" Daily Newspaper Dt. 19/5/2000

Ext. D-4 is a copy of "Aizawl Thupuan" Dt. 19/5/2000

Ext. D-5 is a copy of letter Dt. 15.5.2000 sent to IKK Republic/ITI by Ariel Secretary, IKK Ariel, Aizawl

Ext. D-6 is a copy of letter Dt. 18/5/2000 sent to Director, LR&S Department by Ariel Secretary, IKK Ariel, Gen. Headquarters.

Ext. D-7 is a copy of letter Dt. 5.6.2000 sent to Director, LR&S Department by the Chairman and Secretary, IKK ITI Veng

Ext. D-8 is a copy of letter Dt. 25.8.2000 sent to the Chairman/Secretary IKK, Republic/ITI by the Executive Secretary, IKK Assembly

Ext. D-9 is a copy of letter Dt. 25.8.2000 sent to the Under Secretary, Revenue Department by the Executive Secretary, IKK Ariel Gen. Headquarters

Ext. D-10 is a copy of letter Dt. 19-03-2002 sent to C. Dailova by the Director, LR &S Department

Ext. D-11 is a copy of letter Dt. 29-02-2002 sent to the Secretary, Revenue Department by the Chairman and Secretary, IKK ITI Veng

Ext. D-12 is a copy of meeting notice Dt. 7.3.2002 issued by the Under Secretary, Revenue Department.

In his cross examination, he deposed that since 2002, he shifted to Zonuam and before that he stayed at ITI Veng, Aizawl. Misc Pass No. 43 of 1995 was issued in the name of Secretary, IKK, ITI Veng.

The **DW-2 for defts 5 and 6** in his examination in chief mainly affirmed their written statements and their counter claim petitions.

In his cross examination, he deposed that since 1991, he stayed at ITI Veng. No church building was constructed in the suit land although both

IKK, ITI veng and IKK Republic/ITI worshipped at ITI veng. He was elected as church leader in 2002.

The **DW-2 for defts 5 and 6** in his examination in chief deposed that he is presently the Ariel Secretary of IKK General Headquarters and he further mainly affirmed their written statements and their counter claim petitions. Ext. D- 5 (a) is his signature. Ext. D- 6 (a) is also his signature and Ext. D- 9 (a) is also his signature.

In his cross examination, he deposed that although they did not file a court case, the filed a complaint to ASO-II and the Revenue Minister in the instant cause of action.

## **FINDINGS**

### **Issue No. 1**

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

All other doubts on maintainability of the suit are already adjudicated in affirmative to the plaintiff in the preliminary issues except requisite court fees. As directed, the plaintiff make up deficiency of court fees on 4/2/2011. Thus, this issue is decided in favour of the plaintiff.

### **Issue No. 2**

#### **Whether the “Inhmun Inleina” Dt. 2/5/2000 executed by IKK, ITI Veng, Aizawl and the plaintiff is legally valid or not**

“*Inhmun Inleina*” Dt. 2/5/2000 executed by IKK, ITI Veng, Aizawl and the plaintiff was marked as Ext. P-2, it was put in the Non-Judicial Stamp paper worth amounting to Rs. 10/-. Meanwhile, it was not registered under the Registration Act, 1908. Law on that point is clearly settled recently in **Suraj Lamp & Industries Pvt. Ltd. Vs. State of Haryana & Anr.** decided on 11<sup>th</sup> October, 2011 in connection with SLP (C) No.13917 of 2009, the Supreme Court has explicitly held that-

“It is thus clear that a transfer of immoveable property by way of sale can only be by a deed of conveyance (sale deed). In the absence of a deed of conveyance (duly stamped and registered as required by law), no right, title or interest in an immoveable property can be transferred.”

12. Any contract of sale (agreement to sell) which is not a registered deed of conveyance (deed of sale) would fall short of the requirements of sections 54 and 55 of TP Act and will not confer any title nor transfer any interest in an immovable property (except to the limited right granted under section 53A of TP Act). According to TP Act, an agreement of sale, whether with possession or without possession, is not a conveyance. Section 54 of TP Act enacts that sale of immoveable property can be made only by a registered instrument and an agreement of sale does not create any interest or charge on its subject matter.”

As Ext. D-7 viz. Misc DPL No. 43 of 1995 speaks itself that it was issued under section 11 of the Mizo District (Land and Revenue) Act, 1956 and rule 14 of the Mizo District (Land and Revenue) Rules, 1967. Section 11 of the Mizo District (Land and Revenue) Act, 1956 reads thus-

**“11. Certificate of possession and assessment:**

A settlement – holder shall, on the completion of survey and demarcation of boundary, obtain a certificate of recording for the details of that land on payment of such amount of recording fee as may be prescribed. Different rates of fees may be prescribed for any local area of class of land.”

Rule 14 of the Mizo District (Land and Revenue) Rules, 1967 also says that-

**“14. Periodic Lease:**

The preceding Rules shall apply in granting a periodic lease of land, and a certificate of land-lease shall be issued.”

The terms and conditions laid down in the backside of Ext. D-7 viz. Misc DPL No. 43 of 1995 imposed that-

“4. No transfer of land, either in part, or in whole, by way of sale, gift or otherwise shall be made in any way.

5.If the lessee has no further use of the land for which he was leased, he shall surrender the land free of cost to the District Council, but, he may claim the cost of buildings and other works executed in the land at PWD Schedule of rates.”

Thus, transfer of the said Ext. D-7 viz. Misc DPL No. 43 of 1995 into the plaintiff is not cogently permissible in law. Thus, the alleged Sale deed is arbitrary and invalid as held in **Suraj Lamp & Industries Pvt. Ltd. Vs. State of Haryana & Anr.** (supra.) and as transfer of Misc DPL No. 43 of 1995 is not feasible in the eye of law. This issue is decided in favour of the defendants.

**Issue No. 3**

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

The alleged surrender of the said Ext. D-7 viz. Misc DPL No. 43 of 1995 to the Government was done by the IKK, Republic/ITI whilst the said Ext. D-7 viz. Misc DPL No. 43 of 1995 was issued in the name of Secretary, IKK, ITI Veng, Aizawl whilst the IKK, ITI Veng were split into two viz. IKK, ITI Veng and IKK, Republic/ITI Veng as deposed by both witnesses of parties. The surrender of the said Misc DPL No. 43 of 1995 was not the lessee in contravention of condition no. 5 of terms and conditions laid down in the backside of Ext. D-7 viz. Misc DPL No. 43 of 1995.



Meanwhile, as revealed by Ext. P-6 viz. permission to convert Misc DPL No. 43 of 1995 into house site LSC issued by the Government of Mizoram to the Director, Land Revenue and Settlement Department that the instant LSC No. 104402/01/176 of 2002 issued to the plaintiff was erred in law and is no basis as per the findings under issue no. 2 above. Void order is boldly spelt out in the case of **State Of Orissa & Anr. vs Mamata Mohanty** decided on 9 February, 2011 in connection with Civil Appeal No. 1272 of 2011, the Supreme Court has held that-

“20. It is a settled legal proposition that if an order is bad in its inception, it does not get sanctified at a later stage. A subsequent action/development cannot validate an action which was not lawful at its inception, for the reason that the illegality strikes at the root of the order. It would be beyond the competence of any authority to validate such an order. It would be ironic to permit a person to rely upon a law, in violation of which he has obtained the benefits. If an order at the initial stage is bad in law, then all further proceedings consequent thereto will be non est and have to be necessarily set aside. A right in law exists only and only when it has a lawful origin. (vide: Upen Chandra Gogoi v. State of Assam & Ors., AIR 1998 SC 1289; Mangal Prasad Tamoli (Dead) by L.Rs. v. Narvadeshwar Mishra (Dead) by L.Rs. & Ors. , AIR 2005 SC1964; and Ritesh Tiwari & Anr. v. State of U.P. & Ors., AIR 2010 SC 3823).”

So is the well settled law, the plaintiff will not have any entitlement as prayed in his plaint whilst he remain have *locus standi* to file Money Suit in terms of the observations in **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 against the persons from whom he purchased the suit land to seek remedy in his mishap.

#### **Issue No. 4**

**Whether the counter claim filed by defendants 5 and 6 is maintainable or not.**

In their counter claim the defendants 5 and 6 paid court fees of Rs. 5000/- and the pleading was supported by proper verification with paragraph wise affidavit. If find no irregularities in their counter claim petition.

#### **Issue No. 5**

**Whether the defendants 5 and 6 are entitled to the relief in their counter claim. If so, to what extend.**

As per the findings under issues no. 2 and 3, the defendants will be entitled a relief sought in their counter claim as the plaintiff has no locus standi to file the instant case with cause of action in his favour.

The defendants 5 and 6 challenged Ext. P-6 which is a copy of letter No. K. 52011/80/96- REV Azl. 5<sup>th</sup> Feb., 2002, wherein, the government of Mizoram approved conversion of Misc DPL No. 43 of 1995 into house site LSC in favour of the plaintiff. As found under issue no. 3, it is liable to set aside as invalid order.

Ext. P-7 is a copy of cancellation order of Misc DPL No. 43 of 1995 under Memo No. R. 11040/MLL/IKK/ITI/02-DTE (REV) Dt. Aizawl, the 18<sup>th</sup> Feb., 2002 issued by the Director, Land Revenue and Settlement Department. In this crux, although the lone DW for the defendants 1-4 claimed that after receiving original copy of Misc DPL No. 43 of 1995 as surrendered, cancellation order of the said Misc DPL No. 43 of 1995 was passed, the PW- 1 admitted that at the time of purchasing the suit land by the plaintiff, the plaintiff was not provided original copy of Misc DPL No. 43 of 1995 which elicited that there was foul play for curing the laches in favour of the plaintiff by the defendants 1-4 also. As evidence of the defendants 5 and 6 corroboratively disclosed that after separated IKK, Republic/ITI from the holder of Misc DPL No. 43 of 1995, the separated IKK clandestinely sold the suit land to the plaintiff which is affirmed by Ext. D-2 which is a copy of "*Romei*" Daily Newspaper Dt. 22.5.2000, Ext. D-3 which is a copy of "*Mizo Arsi*" Daily Newspaper Dt. 19/5/2000 and Ext. D-4 which is a copy of "*Aizawl Thupuan*" Dt. 19/5/2000 wherein, the concerned government authorities were educated not to realize the sale of the suit land by taking prudent action by the defendants 5 and 6. Thus, the impugned cancellation order of Misc DPL No. 43 of 1995 under Memo No. R. 11040/MLL/IKK/ITI/02-DTE (REV) Dt. Aizawl, the 18<sup>th</sup> Feb., 2002 is also liable to set aside.

Furthermore, by virtue of the relief sought by defendants 5 and 6 under their prayer no (g), the disputed LSC No. 104402/01/176 of 2002 issued in favour of the plaintiff marked as Ext. P- 10 is also liable to declare as null and void by viewing the well settled law in the case of **State of U. P. v. Amar Singh & Ors.** reported in 1997 (1) SCC 734 at 738, the Supreme Court opined that-

"It is settled law that mutation entries are only for the purpose of enabling the State to collect the land revenue from the person in possession, but it does not confer any title to the land. The title would be derived from an instrument executed by the owner in favour of an alienee as per the Stamp Act and registered under the Registration Act."

Also vide, **Sawarni (Smt.) v. Inder Kaur (Smt.) & Ors.** decided on 23 August, 1996 and reported in 1996 (6) SCC 223 at 227, 1996 SCALE (6) 333: **Sankatchan Jaychandbhai Palet & Ors. v. Vithalbhai Jaychandbhai Patel & Ors.** decided on 13 September, 1996 and reported in 1996 (6) SCC 433 at 435.

Further direction is also mandate to restrain the defendants 1-4 not to take any action detrimental to the interest of the defendants 5 and 6 in regards to the landed property under Misc DPL No. 43 of 1995 except purely in accordance with law freeing from any arbitrary and capricious act. In a

nutshell, the defendants 1-4 are deserved to direct to act over to the said Misc DPL No. 43 of 1995 in the interest of the defendants 5 and 6 in future so as to realize justice, equity and good conscience.

### **ORDER**

In view of the afore findings and elaborations, it is hereby ORDERED and DECREED that the suit of the plaintiff due to lack of merits is dismissed but no order as to cost.

However, Ext. P-6 which is a copy of letter No. K. 52011/80/96- REV Azl. 5<sup>th</sup> Feb., 2002, wherein, the government of Mizoram approved conversion of Misc DPL No. 43 of 1995 into house site LSC in favour of the plaintiff is hereby set aside.

Ext. P-7 which is a copy of cancellation order of Misc DPL No. 43 of 1995 under Memo No. R. 11040/MLL/IKK/ITI/02-DTE (REV) Dt. Aizawl, the 18<sup>th</sup> Feb., 2002 issued by the Director, Land Revenue and Settlement Department is also hereby set aside.

LSC No. 104402/01/176 of 2002 issued in favour of the plaintiff marked as Ext. P- 10 is also hereby declared as null and void.

The defendants 1-4 are further directed not to take any action detrimental to the interest of the defendants 5 and 6 in regards to the landed property under Misc DPL No. 43 of 1995 which can harm the peaceful possession of defendants 5 and 6 except purely in accordance with the procedure established by law freeing from any arbitrary and capricious act. In a nutshell, the defendants 1-4 are directed to act over to the said Misc DPL No. 43 of 1995 in the interest of the defendants 5 and 6 in future so as to realize justice, equity and good conscience.

Parties are directed to bear their own costs.

With this order, the case shall stand disposed of.

Give this order copy to all concerned.

Given under my hand and seal of this court on this 13<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

Copy to:

1. Mr. C. Dailova S/o Chheuva (L), ITI Veng, Aizawl through Mr. L.H. Lianhrima, Adv.
2. The State of Mizoram Through the Chief Secretary, Govt. of Mizoram through Mr. R. Lalremruata, AGA
3. The Secretary to the Govt. of Mizoram, Revenue Department through Mr. R. Lalremruata, AGA
4. The Director, Land Revenue and Settlement Department, Govt. of Mizoram through Mr. R. Lalremruata, AGA
5. The ASO- I, Aizawl District: Aizawl through Mr. R. Lalremruata, AGA
6. Upa C. Lalhmingthanga, Chairman, IKK, ITI Veng- Aizawl through Mr. W. Sam Joseph, Adv.
7. The Secretary, IKK, ITI Veng, Aizawl through Mr. W. Sam Joseph, Adv.
8. P.A. to Hon'ble District & Sessions Judge, Aizawl Judicial District- Aizawl
9. Case record

PESKAR