

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

*DECLARATORY SUIT NO. 01 OF 2001*

*Plaintiff:*

Mr. P.C. Vanlalsanga  
S/o Pangthianga (L)  
Chanmari: Aizawl

*By Advocates*

: 1. Mr. C. Lalramzauva, Sr. Adv.  
2. Mr. A. Rinliana Malhotra, 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 Assistant Settlement Officer-I  
Land Revenue and Settlement Department  
Aizawl District: Aizawl
5. Smt. Lalrammawii Pachuau  
Interserver (India)  
C- 20, Community Centre  
Janakpuri, New Delhi- 110058

*By Advocates*

:

For the defendants no. 1-4 : 1. Mr. R. Lalremruata, AGA  
2. Miss Bobita Lalhmingmawii, AGA

For the defendant no. 5 : 1. Mr. W Sam Joseph, Adv.  
2. Mr. H. Laltanpuia, Adv.

Date of Arguments : 18-06-2012

Date of Judgment & Order : 20-06-2012

**BEFORE**

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

**JUDGEMENT & ORDER**

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**BRIEF STORY OF THE CASE**

The plaintiff in his plaint submitted that amongst two sons and two daughters, he is the youngest son of late Pangthianga, Chanmari, Aizawl. The said Pangthianga late left two LSCs under Nos. 106/73 and 83/73. The location of LSC No. 83/73 is below Ramhlun-Chanmari road. One Assam Type building occupied by the plaintiff and one RCC building both were constructed by the said deceased erected in LSC No. 83/73. The plaintiff occupied the said Assam type building since 1980. During the lifetime of the said Pangthianga, the defendant no. 5 mutated LSC No. 83 of 73 into her name under Memo No. S. 11016/1/91- DTE (REV) Dt. 27/8/91 but which was made without the consent and knowledge of the said Pangthianga. LSC No. 1470/92 was issued in favour of the plaintiff after the dead of Mr. Pangthianga by slicing out of some portion of the area covered by LSC No. 83 of 1973. The Revenue Authorities thereby canceled LSC No. 1470/92 under Memo No. C. 15016/29/2000- DISP/DTE (REV) Dt. 27/7/2001. Court fees at Rs. 30/- is also paid. The plaintiff therefore prayed that (i) a decree in favour of the plaintiff and against the defendants declaring that the plaintiff having been given the land under LSC No. 1470/92 and the Assam type building therein by his late father he is entitled to all rights and title over the suit land (ii) a decree declaring that the LSC No. 1470/92 issued in the name of the plaintiff was rightly and legally issued and that its cancellation by the defendant no. 3 is illegal and therefore to be treated as null and void and that the mutation of LSC No. 83/73 in favour of defendant no. 5 is illegal and without authority (iii) by way of permanent injunction to restrain the defendants from distributing the peaceful possession of the suit land and the LSC thereof by the plaintiff (iv) cost of the suit and any other relief which this court deems fit and proper.

The defendants 1-4 in their written statements stated that the suit is not maintainable and is lack of cause of action for the plaintiff. The suit is also bad for non-joinder of necessary parties and barred by law of limitation. LSC No. 83/73 was mutated in the name of defendant no. 5 on 27/8/1991 with the approval of late Mr. Pangthianga. Mr. Pangthianga executed a valid will on 18/11/1991 in favour of the defendant no. 5. As the Department found their mistakes, cancellation order of the LSC of the plaintiff was made. Partition of LSC No. 83/73 in favour of the plaintiff was done without the consent and knowledge of the holder. The suit is bad for insufficient court fees. Thus, prayed to dismiss of the suit with costs.

The defendant no. 5 in her written statements contended that there is no cause of action in favour of the plaintiff. The suit is not properly named and also not properly valued and no requisite court fee is affixed. The

defendant no. 5 is a permanent resident of Chanmari, Aizawl. On the basis of transfer application submitted by the deceased Mr. Pangthianga, LSC No. 83/73 was mutated in the name of defendant no. 5. The plaintiff was rather never allowed by the deceased Mr. Pangthianga to stay in his premises due to his drunkenness and bad behavior. The defendant no. 5 also contributed the amount for constructing RCC building in the suit land and also looked after the deceased Mr. Pangthianga till his dead and further care the other daughters of the deceased Mr. Pangthianga. The defendant no. 6 is staying at Delhi temporarily and often to transferred to other places during short span of time. Before execution of 'Thutiam' allegedly executed by the deceased on 18.10.1991, the disputed LSC was mutated in the name of the defendant no. 5. The late Mr. Pangthianga rather gave a separate land and building under LSC No. 106 of 1973 to the plaintiff. The plaintiff rather mutated some portion of the suit land in his name clandestinely. Thus prayed to dismiss of the suit by declaring that the plaintiff has no right to stay within the Assam type building located within the land covered under the LSC No. 83 of 1974 and the defendant no. 5 is entitled to vacant and peaceful possession of the said building.

### **ISSUES**

The following issues were framed on 10.10.2002 such as -

1. Whether the suit is maintainable in its present form and style
2. Whether the plaintiff has cause of action against the defendants or not
3. Whether the plaintiff has locus standi to file the suit or not
4. Whether the suit is properly valued and sufficient court fees is paid or not
5. Whether the LSC No. 1470 of 1992 issued in the name of the plaintiff is legal and valid or not
6. Whether cancellation of LSC No. 1470 of 1992 by the Govt. of Mizoram was right and proper
7. Whether the plaintiffs are entitled to the relief claimed. If so, to what extend.

### **BRIEF ACCOUNT OF EVIDENCE**

For the plaintiff:

The plaintiff had produced the following witnesses namely-

1. Mr. P.C. Vanlalsanga S/o Pangthianga (L), Chanmari- Aizawl (Hereinafter referred to as PW-1)
2. Mr. C. Ngurchhawna S/o Lalpuia, Chanmari West, Aizawl (Hereinafter referred to as PW-2)

The **PW-1** in his examination in chief reiterated and affirmed the contents of the plaint being the plaintiff himself. He further continued that-

*Ext. P-1 is a copy of LSC No. 83 of 1973 mutated in the name of defendant no.*

*Ext. P-2 is a copy of LSC No. 1470 of 1992 issued in the name of the plaintiff*  
*Ext. P-3 is a copy of upto date payment receipt of taxes in LSC No. 1470 of 1992*  
*Ext. P-4 is a copy of letter Dt. 17.8.1992 and 7/10/1992 submitted in the name of Smt. Khuangdailovi to the Director, LR&S Deptt.*  
*Ext. P-5 is Specimen signature of Smt. Khuangdailovi*  
*Ext. P-6 is a copy of Order Dt. 16/8/95*  
*Ext. P-7 is a copy of Order Dt. 2/7/2001*  
*Ext. P-8 is a copy of Order Dt. 27/7/2001*  
*Ext. P-9 is a copy of Letter Dt. 27/7/2001*  
*Ext. P-10 is a copy of Order Dt. 28/1/1999*  
*Ext. P-11 is a copy of Order Dt. 6/9/2000*  
*Ext. P-12 is a copy of Gift Deed Dt. 12/11/1991*  
*Ext. P-13 is a copy of Inneihna Lehkha Dt. 6/5/1971*  
*(All documents were objected by learned counsel for the defendant no. 5)*

During cross examination, he stated that his father was died on 28/2/1992. At the time of the death of his father, he lived in the house now owned by the defendant no. 5. He also admitted that the defendant no. 6 may contributed the amount for construction of building owned by her but he cannot say the exact amount. He found that LSC No. 83 of 1973 was mutated in the name of defendant no. 5 on 27/8/1991. He also admitted that he used to take Mr. Ngurchhawna before Lok Adalat and also before the court of Mr. K.L. Liana, Subordinate District Council Court. At that time, Mr. Ngurchhawna never produced Ext. P- 12 purported to have been made by his late father. He also admitted as a fact that he did not produce Ext. P-12 when he filed the instant suit and he lately submitted the same when amendment of plaint was made. Mr. Kawlbuaia is already died. Mr. Dengrum was the close friend of his late father and Mr. Dailova was a Church Leader who also acquainted with his late father. His mother did not prefer any complaint to the Revenue authorities. He admitted that as the Revenue authorities came to know that the LSC No. Azl. 1470 of 1992 was made by false, they made cancellation order of the same.

In his re examination, he further deposed that Mr. Ngurchhawna accompanied him before Lok Adalat and the Court of Mr. K.L. Liana once each but not all the times.

The **PW-2** stated in his examination in chief that the plaintiff and defendant no. 5 were his acquaintance since before their marriage. Their late father upgraded him from handyman to motor driver and used to stay in the residence of their late father till 1965 as their motor driver. He was therefore acted as one of witnesses in the distribution of properties of late Mr. Pangthianga under LSC No. 83/73 made on 12/11/1991. The location of Assam type building was given to the plaintiff and the other portion where RCC building was constructed was given to the defendant no. 5. He also deposed that-

Ext. P-12 (a) is the signature of Mr. Pangthianga (L) put in his presence.

Ext. P-12 (b) is his signature.

Ext. P- 12 (c) is the signature of Mr. Kawlbawiha put in his presence. He also put his signature Ext. P-12 (b) in the presence of Mr. Pangthianga and Mr. Kawlbawiha.

Ext. P-13 is Inneihna Lehkha.

Ext. P- 13 (a) is the signature of Mr. Pangthianga (L) and

Ext. P-13 (b) is the signature of Mr. Kawlbawiha (L) (Objected by counsel for the defendant no. 5).

During cross examination, he deposed that he had driven the vehicle of late Pangthianga during 1963 to 1965. He admitted that he used to accompany the plaintiff whenever he went to the court in connection with the subject matter of the suit obtaining Heirship Certificate even in the year of 1993 including before Lok Adalat. He denied that he did not have Ext. P- 12 and P-13 during 1993. He admitted that the plaintiff used to consume liquor and also may be true that as the plaintiff had used to create nuisance/trouble under the influence of liquor, he was prevented by his father not to occupy the suit building.

In his re-examination, he further deposed that although his father did not allow him to occupy the suit building. His father later allowed him to occupy the same and thereby occupied in the year of 1983 to 1984

For the defendants no. 1-4:

The defendants 1-4 had produced only one witness namely Mr. R.L. Rindika, Superintendent, Land Revenue and Settlement Directorate, Govt. of Mizoram (Hereinafter referred to as **DW for State Deft**). In his examination in chief, he mainly affirmed the contents of their written statements. He further deposed that- Ext. D-7 is their written statement, Ext. D-7 (a) is the signature of the then Under Secretary to the Govt. of Mizoram, Revenue Department. Ext. D- 8, 8 (a), 8 (b), 8 (c) and 8 (d) were documents annexed in their written statement and where they relied.

In his cross examination by learned counsel for the plaintiff, he deposed that he was transferred from Civil Supply Department to Revenue Department in 2011 and he did not know whether the will of Mr. Pangthianga was probate or not.

During cross examination by learned counsel for the defendant no. 5, he further deposed that when an application for transfer of ownership of LSC in the prescribed form is received, the Surveyor verified and on satisfaction of the Department as genuine, mutation can be allowed. He find that Thutiam marked as Ext-D-7 and 8 (a), it cannot be read as will. Ext. D- 5 is the application of transfer of ownership and it is a genuine document. As per their record, the Revenue Department had transferred LSC No. 83/73 in the name of defendant no. 5 as per application submitted by original owner namely Mr. Pangthianga. On partitioned out of LSC No. 83/73 in favour of the plaintiff, there was no application either from the defendant no. 5 or Mr. Pangthianga (L). From their record, Ext. P-12 was never produced before Revenue authorities by the plaintiff. As per the laws in force, no partition of land can be made without the consent of the holder.

He admitted that Ext. P-6, 7, 8 and 9 were all issued by their Department and were legally correct.

For the defendant no. 5:

The defendant no. 5 had produced the following witnesses namely-

1. Smt. Lalrammawii Pachuau D/o Pangthianga (L), Chanmari, Aizawl (Hereinafter referred to as DW-1 for deft no. 5)
2. Smt. Lalengmawii D/o Pangthianga (L), Vaivakawn, Aizawl (Hereinafter referred to as DW-2 for deft no. 5)
3. Mr. P.C. Thandanga S/o Pangthianga (L), Dawrpui Jail Veng, Aizawl (Hereinafter referred to as DW-3 for deft no. 5)

The **DW-1 for deft no. 5** in her examination in chief mainly affirmed her written statements being defendant no. 5 and she further deposed that-

Ext. D-1 is a copy of LSC No. 83 of 1873

Ext. D-2 is a copy of order Dt. 6.4.1995 passed by SDCC, Aizawl

Ext. D-3 is a copy of order Dt. 16/8/1995 passed by ASO-II, Aizawl

Ext. D-4 is a copy of letter dt. 22.3.1993 sent to ASO-I, Aizawl by defendant no. 5

Ext. D-5 is a copy of application for transfer of land in her favour

Ext. D-6 is a copy of order dt. 23.11.2001 passed by ADM (J), Aizawl

Ext. D- 1, 2, 3, 4, 5 and 6 were objected by learned counsel for the plaintiff.

In her cross examination, she admitted that she did not enclose document on the basis of which she had claimed that her late father had given the land under LSC No. 83/73. She admitted that the disputed land is occupied by the plaintiff since 1987 till date. She married with her present husband in 1995. She admitted that her elder brother Mr. P.C. Thandanga and her elder sister Mrs. Lalengmawii are well placed and they are not in need of any assistance from her or from the plaintiff.

The **DW-2 for deft no. 5** in her examination in chief deposed that she is the daughter of late Mr. Pangthianga and permanent resident of Chanmari, Aizawl. She know that during the life time of her father, he gave a land under LSC No. 83 of 1973 to her sister defendant no. 5 and mutated the same in the name of defendant no. 5 on 27.8.1991 as per transfer application submitted by her late father. Her father never allowed the plaintiff to occupy the suit land but the plaintiff forcefully occupied the suit land much after 1980. The defendant no. 5 also invested her earning to the building construction of her father in the suit land. Her father was looked after by the defendant no. 5 till his death. The children of the plaintiff namely- Biakthanchami and Lalthanpari were also look after by the

defendant no. 5. The gift deed purported to have been made by her father is a manufactured one.

In her cross examination, she deposed that she married in 1968 and run nuclear family. The defendant no. 5 is her elder sister, the plaintiff is her elder brother, Mr. P.C. Thandanga is their eldest siblings. She did not have any knowledge on the existence of gift deed in favour of the defendant no. 5. She admitted as a fact that it was the defendant no. 5 who approached the Revenue authorities for mutation of LSC No. 83 of 1973 into her name.

The **DW-3 for deft no. 5** in his examination in chief deposed that he is the eldest son of late Mr. Pangthianga and married his first wife in 1961 and lives separately from his parents since 1968. The plaintiff is having problems of alcoholic and his father did not like to live with him. He know that during the life time of his father, he gave a land under LSC No. 83 of 1973 to his sister defendant no. 5. The defendant no. 5 also look after the children of the plaintiff namely Biakthanchami and Lalthanpari. He also knows that during the absence of defendant no. 5, the plaintiff clandestinely took out original copy of LSC No. 83 of 1973 from Khuangdailovi and thereby pursued for partitioned out for his favour.

In his cross examination, he deposed that the present house building occupied by the plaintiff was constructed by his father during 1966 and slightly renovated by the plaintiff. Ext. P-12 (a) is the signature of her late father. Ext. P- 13 (a) is also the signature of his late father. His late father was died in 1992.

In his re-examination, he deposed that Ext. P-12 (a) and Ext. P-13 (a) appears the signatures of his late father but it is not his signatures.

### **TERMS OF ARGUMENTS**

At the time of arguments, the main contentions of parties is about documents as produced two documents plus one application form copy for transfer of LSC in the name of the defendant no. 5.

### **FINDINGS**

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

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

Before dealing with factual matrix, holistic guidelines set forth is a must to close look as held in the case of **Maria Margarida Sequeria Fernandes and Others v. Erasmo Jack de Sequeria (Dead) through L.Rs.** (2012) 3 SCALE 550, the Supreme Court had laid stress on purity of pleadings in civil cases. I deem it appropriate to set out paras 61 to 79 of that judgment dealing with broad guidelines provided by the Court which are equally relevant in this case:-

“61. In civil cases, pleadings are extremely important for ascertaining the title and possession of the property in question.

62. Possession is an incidence of ownership and can be transferred by the owner of an immovable property to another such as in a mortgage or lease. A licensee holds possession on behalf of the owner.

63. Possession is important when there are no title documents and other relevant records before the Court, but, once the documents and records of title come before the Court, it is the title which has to be looked at first and due weightage be given to it. Possession cannot be considered in vacuum.

64. There is a presumption that possession of a person, other than the owner, if at all it is to be called possession, is permissive on behalf of the title-holder. Further, possession of the past is one thing, and the right to remain or continue in future is another thing. It is the latter which is usually more in controversy than the former, and it is the latter which has seen much abuse and misuse before the Courts.

65. A suit can be filed by the title holder for recovery of possession or it can be one for ejectment of an ex-lessee or for mandatory injunction requiring a person to remove himself or it can be a suit under Section 6 of the Specific Relief Act to recover possession.

66. A title suit for possession has two parts – first, adjudication of title, and second, adjudication of possession. If the title dispute is removed and the title is established in one or the other, then, in effect, it becomes a suit for ejectment where the defendant must plead and prove why he must not be ejected.

67. In an action for recovery of possession of immovable property, or for protecting possession thereof, upon the legal title to the property being established, the possession or occupation of the property by a person other than the holder of the legal title will be presumed to have been under and in subordination to the legal title, and it will be for the person resisting a claim for recovery of possession or claiming a right to continue in possession, to establish that he has such a right. To put it differently, wherever pleadings and documents establish title to a particular property and possession is in question, it will be for the person in possession to give sufficiently detailed pleadings, particulars and documents to support his claim in order to continue in possession.

68. In order to do justice, it is necessary to direct the parties to give all details of pleadings with particulars. Once the title is prima facie established, it is for the person who is resisting the title holder's claim to possession to plead with sufficient particularity on the basis of his claim to remain in possession and place before the Court all such documents as in the ordinary course of human affairs are expected to be there. Only if the pleadings are sufficient, would an issue be struck and the matter sent to trial, where the onus will be on him to prove the averred facts and documents.

69. The person averring a right to continue in possession shall, as far as possible, give a detailed particularized specific pleading



along with documents to support his claim and details of subsequent conduct which establish his possession.

70. It would be imperative that one who claims possession must give all such details as enumerated hereunder. They are only illustrative and not exhaustive.

- a) who is or are the owner or owners of the property;
- b) title of the property;
- c) who is in possession of the title documents
- d) identity of the claimant or claimants to possession;
- e) the date of entry into possession;
- f) how he came into possession - whether he purchased the property or inherited or got the same in gift or by any other method;
- g) in case he purchased the property, what is the consideration; if he has taken it on rent, how much is the rent, license fee or lease amount;
- h) if taken on rent, license fee or lease - then insist on rent deed, license deed or lease deed;
- i) who are the persons in possession/occupation or otherwise living with him, in what capacity; as family members, friends or servants etc.;
- j) subsequent conduct, i.e., any event which might have extinguished his entitlement to possession or caused shift therein; and
- k) basis of his claim that not to deliver possession but continue in possession.

71. Apart from these pleadings, the Court must insist on documentary proof in support of the pleadings. All those documents would be relevant which come into existence after the transfer of title or possession or the encumbrance as is claimed. While dealing with the civil suits, at the threshold, the Court must carefully and critically examine pleadings and documents.

72. The Court will examine the pleadings for specificity as also the supporting material for sufficiency and then pass appropriate orders.

73. Discovery and production of documents and answers to interrogatories, together with an approach of considering what in ordinary course of human affairs is more likely to have been the probability, will prevent many a false claims or defences from sailing beyond the stage for issues.

74. If the pleadings do not give sufficient details, they will not raise an issue, and the Court can reject the claim or pass a decree on admission.

75. On vague pleadings, no issue arises. Only when he so establishes, does the question of framing an issue arise. Framing of issues is an extremely important stage in a civil trial. Judges are expected to carefully examine the pleadings and documents before framing of issues in a given case.

76. In pleadings, whenever a person claims right to continue in possession of another property, it becomes necessary for him to

plead with specificity about who was the owner, on what date did he enter into possession, in what capacity and in what manner did he conduct his relationship with the owner over the years till the date of suit. He must also give details on what basis he is claiming a right to continue in possession. Until the pleadings raise a sufficient case, they will not constitute sufficient claim of defence.

77. XXXX XXXX XXXX

78. The Court must ensure that pleadings of a case must contain sufficient particulars. Insistence on details reduces the ability to put forward a non-existent or false claim or defence.

79. In dealing with a civil case, pleadings, title documents and relevant records play a vital role and that would ordinarily decide the fate of the case.”

In the light of the above, the instant complaint may be exonerated. The complaint is accompanied by verification supported by paragraph wise affidavit which is found fit as per the provisions of sub- rule (4) of rule 15 under Order VI of the CPC. This issue is therefore decided in favour of the plaintiff.

### **Issue No. 2**

#### **Whether the plaintiff has cause of action against the defendants or not**

Law on cause of action is well settled 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.”

Subject to proof of the genuineness of Ext. P-12 viz. alleged Deed of deceased Mr. Pangthianga (L), locus of standi may be found.

### **Issue No. 3**

#### **Whether the plaintiff has locus standi to file the suit or not**

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. This is a rule of ancient vintage and it arose during an era when private law dominated the legal scene and public law had not yet been born. The leading case in which this rule was enunciated and which marks the starting point of almost every discussion on *locus standi* is *Ex parte Sidebotham* (1980) 14 Ch D 458. There the Court was concerned with the question whether the appellant could be said to be a 'person aggrieved' so as to be entitled to maintain the appeal. The Court in a unanimous view held that the appellant was not entitled to maintain the appeal because he was not a 'person aggrieved' by the decision of the lower Court. James, L. J. gave a definition of 'person aggrieved' which, though given in the context of the right to appeal against a decision of a lower Court, has been applied widely in determining the standing of a person to seek judicial redress, with the result that it has stultified the growth of the law in regard to judicial remedies. The learned Lord Justice said that a 'person aggrieved' must be a man "who has suffered a legal grievance, a man against whom a decision has been pronounced which has wrongfully deprived him of something or wrongfully refused him something or wrongfully affected his title to something." Thus definition was approved by Lord Esher M. R. in *In Re Reed Bowen & Co.* (1887) 19 QBD 174 and the learned Master of the Rolls made it clear that when James L. J. said that a person aggrieved must be a man against whom a decision has been pronounced which has wrongfully refused him of something, he obviously meant that the person aggrieved must be a man who has been refused something which he had a right to demand. There have been numerous subsequent decisions of the English Courts where this definition has been applied for the purpose of determining whether the person seeking judicial redress had *locus standi* to maintain the action. It will be seen that, according to this rule, it is only a person who has suffered a specific legal injury by reason of actual or threatened violation of his legal right or legally protected interest who can bring an action for judicial 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.”

Again subject to proof of the genuineness of Ext. P-12 viz. alleged Deed of deceased Mr. Pangthianga (L), locus of standi may be found.

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

#### **Whether the suit is properly valued and sufficient court fees is paid or not**

Being claiming declaratory suit, court fees at Rs. 30/- is paid by the plaintiff. It is therefore attracted the provisions of Section 17 (iii) of the Court Fees (Mizoram Amendment) Act, 1996 (Act No. 5 of 1997) vis. ‘*Consequential relief*’. The 44 years old precedent in the case of **Chief Inspector Of Stamps, U.P., Allahabad vs Mahanth Laxmi Narain And Ors.** decided on 29 October, 1969 reported in AIR 1970 All 488, Full Bench of the Allahabad High Court observed in respect of ‘Consequential relief’ that-

“24. In Suit No. 83 of 1953, out of which the special appeals arise, both the Civil Judge as well as the learned Single Judge in appeal have held that the suit was for a declaratory decree in which the consequential relief of injunction was prayed for and was, therefore, governed by Sub-section (iv) (a). This finding is correct. The consequential relief sought was for an injunction, restraining the defendants from obstructing the plaintiffs from using the hall belonging to the Mandali. The Civil Judge held that the relief of injunction was in respect of immovable property, that it was incapable of valuation and, therefore, must be valued at the market value of the immovable property (hall) which was Rs. 12,000/-. The learned Single Judge held that the relief of injunction was not in respect of any immovable property and that the court-fee was payable on the amount at which the two reliefs were valued in the plaint, i.e., Rs. 5,200/-. Both these views are erroneous. The injunction is clearly in respect of immovable property, i.e., the hall, and this relief is capable of valuation. As held above, the suit has to be valued according to the value of the relief of injunction and the relief of injunction has to be valued in accordance with the provisions of Sub-section (iv-B).”

In the instant case, the manner of relief sought clearly indicates that it is within the ambit of consequential relief like prayer for permanent injunction to restrain the defendants from the suit land. Bearing mind the above legal notions and principles, Rs. 30/- only as court fees stamp (affixed in the instant suit) is not enough and insufficient in the instant case where consequential relief is prayed for and the requisite court fees in terms of the suit valuation in the Court Fees (Mizoram Amendment) Act, 1996 (Act No. 5 of 1997) is required to make up by the plaintiff. With regards to valuation of the suit, in the recast plaint, the plaint was valued at Rs. 10 lakhs and is no need of elucidations.

### **Issue No. 5**

#### **Whether the LSC No. 1470 of 1992 issued in the name of the plaintiff is legal and valid or not**

As deposed by DWs for defendant no. 5, whilst the defendant no. 5 was out of station from Aizawl, partitioned out of the suit land under LSC No. 83 of 1973 by making LSC No. 1470 of 1992. On the facet of the LSC No. 1470 of 1992, it was clearly mentioned that the said LSC No. 1470 of 1992 was partitioned out from the LSC of the defendant no. 5 namely Smt. Lalrammawii under LSC No. 83 of 1973. Undisputedly, without the knowledge and consent of the holder, partitioned out of landed property is inimical to justice, equity and good conscience, thus, the issuance of LSC No. 1470 of 1992 was arbitrary, capricious and liable to set aside as done by the Revenue authorities.

### **Issue No. 6**

#### **Whether cancellation of LSC No. 1470 of 1992 by the Govt. of Mizoram was right and proper**

Cancellation order was made under No. C. 15016/29/2000-DISP/DTE (REV) Dated Aizawl, the 2<sup>nd</sup> July, 2001 marked as Ext. P-7, the reasons for cancellation of LSC No. 1470 of 1992 was due to making such LSC without the consent and knowledge of the holder namely Smt. Lalrammawii, no where in the course of proceedings, evidence is adduced that for issuance of LSC No. 1470 of 1992 by partitioned out from LSC No. 83 of 1973, the consent and knowledge of defendant no. 5 is obtained. However, the issuance of LSC No. 1470 of 1992 was held as arbitrary, capricious and liable to set aside as done by the Revenue authorities in the above issue, no need of further elaborations on that point.

### **Issue No. 7**

#### **Whether the plaintiffs are entitled to the relief claimed. If so, to what extend.**

Undisputedly, the original form and area of LSC No. 83 of 1973 was transferred to the defendant no. 5 on 27.8.1991. Ext. P- 12 where the plaintiff relied was executed on 12.11.1991 allegedly by the deceased Mr. Pangthianga, the alleged 'Will/Thutiam (Bond)' marked as Ext. D- 8 (a) was also allegedly executed by the deceased Mr. Pangthianga on 18/10/1991. Clearly seen that if Ext. P-12 and Ext. D- 8 (a) may be presumed as duly executed by the late Mr. Pangthianga, it was done without authority or competency whilst the entire suit land under LSC No. 83 of 1973 was already transferred to the defendant no. 5. Meanwhile, Ext. D-5 viz. every column of form of 'Application for transfer of ownership of LSC' was duly filled up by the defendant no. 5, the concerned President of Village Council and late Mr. Pangthianga which elicited that LSC No. 83 of 1973 was sought to transfer in the name of defendant no. 5. The lone DW for defendants 1-4 also admitted as genuine and authenticate documents as usual practice in their Department. Thus, the plaintiff will have no entitlement in the relief sought in the case at hand.

**ORDER**

UPON hearing of parties and on the basis of the afore findings in various issues, as inevitably, the suit is dismissed due to lack of merits and insufficient court fees in the plaint. However, as no counter claim with requisite court fees is paid by the defendant no. 5, no relief in her favour can be decreed.

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 20<sup>th</sup> June, 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. DS/1/2001, Sr. CJ (A)/

Dated Aizawl, the 20<sup>th</sup> June, 2012

Copy to:

1. Mr. P.C. Vanlalsanga S/o Pangthianga (L), Chanmari: Aizawl through Mr. C. Lalramzauva, Sr. 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 Assistant Settlement Officer-I, Land Revenue and Settlement Department, Aizawl District: Aizawl through Mr. R. Lalremruata, AGA
6. Smt. Lalrammawii Pachuau, Interserver (India), C- 20, Community Centre, Janakpuri, New Delhi- 110058 through Mr. W. Sam Joseph, Adv.
7. P.A to Hon'ble District Judge, Aizawl Judicial District- Aizawl
8. Case record

PESKAR