

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

*RTA NO. 34 OF 2009*

*Appellant:*

Mr. Saithantluanga  
Bethlehem Veng, Aizawl

*By Advocates*

: 1. Mr. Nelson Sailo, Sr. Adv.  
2. Smt. Dinary T. Azyu  
3. Miss Vanhmingliani  
4. Mr. Victor L. Ralte

*Versus*

*Respondents:*

1. Mr. Lalduhkima  
S/o Ngutlangluani  
Bethlehem Veng, Aizawl

2. Mr. Raltawnvela  
S/o Darkhupthanga  
Ramhlun South, Aizawl

*By Advocates*

:

For the respondent no. 1

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

For the respondent no. 2

: 1. Mr. B. Lalramenga  
2. Mr. Reuben L. Tochwawng  
3. Mr. J.C. Lalnunsanga  
4. Miss Bobita Lalhmingmawii

*AND RTA NO. 37 OF 2009*

*Appellant:*

Mr. Raltawnvela  
S/o Darkhupthanga  
Ramhlun South, Aizawl

*By Advocates*

: 1. Mr. B. Lalramenga

2. Mr. Reuben L. Tochhawng
3. Mr. J.C. Lalnunsanga
4. Miss Bobita Lalhmingmawii

*Versus*

*Respondents:*

3. Mr. Lalduhkima  
S/o Ngutlangtluani  
Bethlehem Veng, Aizawl
4. Mr. Saithantluanga  
Bethlehem Veng, Aizawl

*By Advocates* :

For the respondent no. 1 : 1. Mr. W. Sam Joseph  
2. Mr. Zochhuana  
3. Mr. Hranghmingthanga Ralte  
4. Mr. F. Lalenglina  
5. Mr. Francis Vanlalzuala  
6. Mr. C. Lalfakzuala

For the respondent no. 2 : 1. Mr. Nelson Sailo, Sr. Adv.  
2. Smt. Dinary T. Azyu  
3. Miss Vanhmingliani  
4. Mr. Victor L. Ralte

Date of hearing : 22-06-2012

Date of Judgment & Order : 22-06-2012

**BEFORE**

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

**JUDGMENT AND ORDER**

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**INTRODUCTORY**

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

meeting globalization era in the very competitive globe where malfunctioning of the government is a sine quo non to vanish.

### **BRIEF FACTS**

Both these appeals are directed against the judgment & order passed by learned Magistrate, Subordinate District Council Court, Aizawl dt. 04.09.2009 in Heirship Certificate Case No. 415 of 1998. Wherein, the learned Magistrate appointed Mr. Lalduhkima is declared and appointed as the legal heir of the deceased Smt. Ngurtlangtluani in respect of the land and building covered by LSC No. 760 of 1974.

### **FINDINGS**

Learned counsels of both parties and appeared and heard them at length, at the result of hearing of learned counsels of both parties on their fair and holistic submissions, the following admitted facts germinated –

1. Without giving opportunity of being heard for arguments, the impugned judgment & order was passed by the learned trial court by fixing court dates in three consecutives days for fixing date for oral arguments, judgment & order after returned back of the case record from learned ASDCC, Aizawl which were without notice to aggrieved parties.
2. The other stranger Mr. P.C. Chuaauthuama already got LSC over to the suit land and thereby occupied the suit land but he is not impleaded as parties in the lis.
3. The learned trial court decreed beyond pleadings of Mr. Lalduhkima by giving the entire plot of land under LSC No. 760 of 1974 by eschewed on the pleadings on other service benefits and bank account deposits of Mr. Lalduhkima etc.

As fairly admitted and agreed by learned counsels of both parties, although appellate stage, the case is multiplicity unable to adjudicate effectively without impleadment of necessary parties. Meanwhile, as per the letter no. 5/2010/RR/62 Dated Aizawl, the 30<sup>th</sup> May, 2012, the record keeper fails to locate the case record of learned trial court to transmit to this court. It therefore impels to set aside the impugned judgment & order and to allow parties to file a fresh suit in the same cause of action by impleading all necessary parties in due course of time instead of remand back of the case for de novo trial since the main original case was opened on simple application of Heirship Certificate without specific verifications etc. and as the then Subordinate District Council Court were already defunct.

### **ORDER**

Due to the aforesaid reasons, the instant appeal case is a fit case to interfere in the impugned judgment & order rendered by learned Magistrate,

Subordinate District Council Court, Aizawl. The impugned judgment & order passed by learned Magistrate, Additional Subordinate District Council Court, Aizawl dt. 04.09.2009 in Heirship Certificate Case No. 415 of 1998 is hereby set aside and quashed accordingly. As civil courts in Mizoram are modulating in tune with the nascent insulation of judiciary from the executives with some changes of enactments and institutions not suit for directing de novo trial.

Thus, in view of the on going process of systematization of civil courts in the state of Mizoram in line with the nascent insulation of judiciary from the executives, instead of remanding back of the case to the learned lower court viz. Civil Judge for de novo trial, parties are at liberty to file a fresh suit/case in the appropriate court of law having subject matter and territorial jurisdiction as it will be convenient for parties as well as adjudicating court.

Give this copy to all concerned.

With this order, the cases shall stand disposed of.

Given under my hand and seal of this court on this 22<sup>nd</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. RFA/34&37/2009, Sr. CJ (A)/

Dated Aizawl, the 22<sup>nd</sup> June, 2012

Copy to:

1. Mr. Saithantluanga, Bethlehem Veng, Aizawl through Mr. Nelson Sailo, Sr. Adv.
2. Mr. Lalduhkima S/o Ngutlangtluani, Bethlehem Veng, Aizawl through Mr. W. Sam Joseph, Adv.
3. Mr. Raltawnvela S/o Darkhupthanga, Ramhlun South, Aizawl through Mr. B. Lalramenga, Adv.
4. P.A. to Hon'ble District Judge, Aizawl Judicial District- Aizawl
5. Both case records

PESKAR