

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

*TITLE SUIT NO. 23 OF 2007*

*Plaintiff:*

Mr. Lalbiakthanga,  
S/o Zuhrima(L),  
C/o Ms. K. Malsawmi,  
Tlangnuam Road, Opp. Catholic Church,  
Kulikawn, Aizawl.

*By Advocates*

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

*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. The Deputy Commissioner cum Collector,  
Aizawl District, Aizawl.
6. The Chief Engineer, PHE Department  
Mizoram, Aizawl.
7. Mr. Dokhuma,  
S/o Chawnkaia,  
Chaltlang, Aizawl.
8. Mr. Chawikunga,

S/o Chawithanga,  
Chaltlang, Aizawl.

9. Mr. Lalramthara,  
S/o Dengkhumi,  
Chanmari, Aizawl.

10. Mr. Liankhuma,  
S/o China,  
Chaltlang, Aizawl.

11. Mr. R. Vanlalruata,  
S/o R. Satlana,  
Upper Bazar, Aizawl.

12. Mr. Vanlalduha,  
S/o Rosema,  
Chaltlang, Aizawl.

13. Ms. Thanbuaii,  
W/o R. Satlana(L),  
Upper Bazar, Aizawl.

14. Mr. Lalhmingthanga,  
S/o Khawkunga,  
Chaltlang, Aizawl.

*By Advocates* :

For the defendants no. 1-6 : 1. Mr. R. Lalremruata, AGA  
2. Miss Bobita Lalhmingmawii, AGA

For the defendants no. 7-14 : \_\_\_\_\_

Date of Arguments : 28-06-2012

Date of Judgment & Order : 29-06-2012

### **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 when the Village Council House pass belonging to Mr. Thanghluta was converted into Land Settlement Certificates, Pu Chhuanvela was allotted a plot of land measuring an area of 7128 sq.ft. vide Land Settlement Certificate No. Azl-

4185 of 1986. The said Pu Lalchhuanvela offered the said land for sale. The plaintiff verified the land documents in his possession and found that the Land and Revenue Department had issued non-encumbrance certificate showing that as per the records maintained in the revenue department the said plot of land was free from the office of the defendants nos. 3 and 4 and found that the said plot of land was free from encumbrances, he purchased the said plot of land in good faith from the said Pu Lalchhuanvela by paying a sum of Rs. 35,000/- in the month of April 1989. Thereafter, he applied to the Revenue authorities for transferring the LSC in his name. In pursuance of the application and after verifying all the available records and as they found no impediments for the transfer of the said LSC, the said LSC was transferred in the name of the plaintiff on 12.4.1989. On the same day, the Assistant Settlement Officer-II issued a letter vide No.DST.10/N/89/18 dated 12<sup>th</sup> April 1989 informing the plaintiff of the transfer of the said LSC in his name. Since the time the said LSC was transferred he has been paying tax/revenue in respect of the said LSC and he has cleared the tax till date. The plaintiff further submitted that due to financial constraint the plaintiff could not construct any building within the suit land. In the year 2000 the plaintiff was informed by someone from the revenue authorities to be at the spot where the plaintiff's land was located. Accordingly, the plaintiff and his relatives were present and at that time none of the private defendants nos. 7 to 14 have made any claim to the suit land. The revenue authorities also confirmed the title of the plaintiff.

In the month of June 2001 the defendant no.6 and his men started digging the plaintiff's land for laying booster pump house. As soon as the plaintiff came to know about this, he issued a notice informing that he is the owner of the land and requested them not to do anything within the land. In pursuance of the said notice the defendant no. 6 and his men stopped doing anything within the suit land.

In the year 2003 when the plaintiff was intending to construct a building within the said land, the plaintiff came to know that there was a general order canceling the LSC of the plaintiff. From the copy of the said cancellation order dated 9<sup>th</sup> Jan 2003 the plaintiff came to know that the said LSC No. Azl-4185 of 1986 belonging to the plaintiff was cancelled on the basis of the Hon'ble High Court order dated 8.9.88 in C.R. No.1400/88. The plaintiff was not given any opportunity to show cause against the cancellation of his LSC. The said cancellation order was passed behind the back of the plaintiff. And he was not made a party in the said case and no action can be taken against the plaintiff without giving them opportunity to explain their position of the case. At the request of the plaintiff the copy of the said cancellation order issued vide Memo No. T.15016/16/88-DISP/DTE (REV) dated Aizawl, the 9<sup>th</sup> Jan, 2003 was provided to the plaintiff. The plaintiff requested the Revenue department to provide the basis on which the cancellation of the plaintiff's LSC's were made and in pursuance of the request the revenue department provided with copies of the High Court order dated 7.9.88 and order dated 14.3.1991. As per the said order it was mentioned that there shall be interim suspension of the para 2 of the order No.LRR/A-North/2/83/Pt-V Dated 4<sup>th</sup> May 1988 and subsequently in the order dated 14.3.1991 the petition was dismissed. The

High Court never passed an order to cancel the LSC No. Azl-4185 of 1986 belonging to the plaintiff. The plaintiff feels that the cancellation was done due to misconception of the circumstances under which the said LSCs were issued in favour of the plaintiff. In pursuance of the order No.LRR/A-North/2/83/Pt-V dated 4<sup>th</sup> May 1988 the defendant no.3 had issued an order requesting the defendants nos. 7, 8, 10, 12 & 14 and others were asked to submit their passes vide Order No.DLS/HP-2/87(R)/25 Dated 11<sup>th</sup> Aug 1988.

The passes were issued in favour of the defendants nos. 7, 8, 10, 12 & 14 vide their passes nos. 198/72, 302/72, 208/72, 200/72, 192/72 but he said defendants have not looked after the said land and as mentioned earlier the LSC was issued in favour of the Lalchhuanvela way back in 1986 and transferred in the name of the plaintiff in the year 1989, hence the said passé and the LSC's issued subsequently on the basis of the said passed are liable to be cancelled. The High Court never issued order cancelling the plaintiff's LSC, hence the order of the revenue department cancelling the LSC of the plaintiff is illegal and against the principles of the land laws in Mizoram. The High Court never mentioned that the said passes are to be declared valid but the High Court gave direction to the Govt. of Mizoram to enquire into the genuineness of the said passes. High Court never upheld the passes of the defendants nos. 7, 8, 10, 12 & 14. Hence the orders passed by the defendant no. 1 to 4 on the basis of the High Court order are not proper.

The plaintiff had purchased the land by spending his hard earned money, the Revenue department is liable to compensate the plaintiff. The plaintiff issued a notice dated 31.7.2001 and in reply to the said notice the Revenue authorities informed the plaintiff that they would like to allot another site in lieu of the LSC which was purchased by the plaintiff, but the Revenue authorities have not allotted alternate site to the plaintiff as yet and they are not intending to do so.

When the plaintiff came to know that the defendants no.7 to 14 are going to be compensated and the compensation amount s being sent to the defendant no.5 and the defendant no. 5 is intending to pay to the defendants nos. 7 to 14. The plaintiff came to know that the said passes illegally issued in favour of the defendants nos. 7, 8, 10, 12 & 14 and the same was illegally converted in to LSCs Nos. 103101/01/1543 of 2006, 103101/01/1060 of 2004, 103101/01/1067 of 2004, 103101/01/986 of 2004 & 103101/01/980 of 2004 and also illegally transferred in the names of 9, 11 & 13. In the meantime the plaintiff came to know that the defendants are intending to acquire the land and give compensation to the private defendants and take possession of the land. Hence the plaintiff is forced to approach the court. The plaintiff was intending to issue notice u/s. 80 CPC against the order mentioned in this para and the issuance of fresh LSC on the basis of the order, but the plaintiff is unable to wait for the notice priod as the defendants are intending to dispossess the plaintiff from the suit land forcibly and if the plaintiff waits for the notice period the plaintiff would be dispossessed from the suit property and the compensation would be paid to the private defendants. Due to the urgency

of the suit the plaintiff is unable to issue notice u/s 80 CPC, hence the suit is filed without issuing the notice as required under CPC.

The defendants 1-6 by contesting in the case submitted their joint written statements stating that the plaintiff does not have any cause of action to file the instant suit. LSC No. Azl. 4185 of 1986 was directly issued without prior approval of the government. The land covered by LSC No. Azl. 4185 of 1986 overlapped Shop Pass Nos. 2000/72, 192/72 and 302/72 and is therefore liable to cancel. Before cancellation of the suit LSC, show cause notice was duly served to the plaintiff on 18.4.2002. In connection with Civil Rule No. 1400 of 1988, on 11.8.1988, the Gauhati High Court upheld the Shop Passes on the suit and immediate action was taken in compliance with the said judgment & order. As per Notification No. Ed. 7. 1444-57 Dt. 9.6.1960, Chaltlang (S) was declared as protected area where the village council was curbed not to issue any House Pass without prior approval of the Government. The instant LSC No. Azl. 4185 of 1986 converted from Village Council Pass in the protected area cannot be sustainable in law. The application of the plaintiff for alternative land is unable to realize as his chosen land was already allotted to Smt. Lalthanveli. The plaintiff therefore could not have any rights on the properties under LSC No. Azl. 4185 of 1986. Thus, prayed to dismiss of the suit with costs.

### **ISSUES**

The following issues were framed on 31-03-2008 such as-

1. Whether the suit is maintainable in its present form and style.
2. Whether there is any cause of action in favour of the Plaintiff against the defendants.
3. Whether the Plaintiff has any locus standi to file the present suit.
4. Whether the Plaintiff has a cause of action as the holder of LSC No. Azl- 4185 of 1986. If so, whether it was duly issued according to procedure established by law.
5. Whether the LSC No. Azl- 4185 of 1986 overlapped Shop Pass no. 200/72 belonging to Pu Vanlalduha, Shop Pass No. 192/72 belonging to Pu Lalhmingthanga and Shop Pass No. 302/72 belonging to Pu Chawikunga.
6. Whether cancellation of LSC No. Azl- 4185 of 1986 dated 9<sup>th</sup> Jan, 2003 is valid order or not.
7. Whether the Plaintiff is entitled to the relief claim or not. And, if so, to what extent.

### **BRIEF ACCOUNT OF EVIDENCE**

For the plaintiff:

The plaintiff had produced the following witnesses namely-

1. Smt. K. Lalmalsawmi, Tlangnuam, Aizawl, Mizoram (Hereinafter referred to as PW-1)
2. Mr. Daniel Vanlalnghaka, s/o Lianhlira, Khatla, Bethel (Hereinafter referred to as PW-2)
3. Smt. Zirsangpuii, w/o David Liansangzela, Khatla Bethel, Aizawl (Hereinafter referred to as PW-3)

The **PW-1** in her examination in chief states that she is the Attorney Holder of the plaintiff. The **PW-1** exhibited the following documents namely-

Ext.P-1 is a copy of LSC No.Azl-4185 of 1986 which is in the name of Lalbiakthanga.

Ext.P-2 is a copy of Tax Clearance Certificate.

Ext.P-3 is a copy of letter informing the transfer of LSC No.Azl-4185 of 1986 in the name of the plaintiff.

Ext.P-4 is a copy of Liquidation certificate issued by ZIDCO.

Ext.P-5 is a copy of notice under Sec 80, CPC.

Ext.P-6 is a copy of cancellation order issued by Directorate of L R & S, Govt. of Mizoram, Aizawl, Mizoram.

Ext.P-7 is a copy of Hon'ble High Court order.

Ext.P-8 is a copy of Hon'ble High Court order dated 14.3.1991.

Ext.P-9 is a copy of a letter sent by the Under Secretary to the Director, L R & S Deptt.

Ext.P-10 is a copy of order No.DLR/HP-2/87(R)/25 dated 11<sup>th</sup> August, 1988.

Ext.P-11 is a copy of letter sent by the plaintiff to the Commissioner, L R & S Deptt.

Ext.P-12 is a copy of reply sent by Deputy Director, L R & S Deptt. to the plaintiff.

Ext.P-13 is Special Power of Attorney executed by the plaintiff appointing **PW-1** as plaintiff's attorney.

**PW-1** in his cross examination by the AGA, he deposed that how Pu Chhuanvela came to the possession of the suit land is not within his knowledge. He also stated that the sale letter by which plaintiff bought the suit land is not found to be in the court.

During his re-examination **PW-1** further deposed that the suit land was bought after due care had been taken and only after being found to be free from encumbrance.

**PW-2** in stated in his examination in chief that he is aware of the fact that the plaintiff is having a plot of land at Durtlang Road covered by LSC No.Azl-4185 of 1986 and also frequently visited the said land. He also stated that he was present at the time when plaintiff was called upon by the Revenue Department to be at the spot where the plaintiff's land was located and confirmed that none of the private defendants Nos. 7 to 14 made any claim to the suit land.

During his cross examination by AGA he deposed that he has seen the LSC of the plaintiff however. He stated as a fact that he did not know the

Revenue authorities who were on the suit land that day. Even though he stated that the Revenue authorities confirmed the title of the plaintiff he however has not seen the confirmation letter till date.

**PW-3** in her examination in chief stated that she is aware of the plaintiff having a plot of land i.e. the suit land.

During her cross examination by the AGA deposed that the plaintiff is her relative. She did not see the LSC No.Azl-4185 of 1986 nor does she know the exact location of the suit land.

For the defendants 1-6:

The defendants 1-6 produced the following witnesses namely-

1. Shri. K. Lalhmuakliana, Assistant Director, L R & S Deptt., Aizawl, Mizoram (Hereinafter referred to as **DW – 1 for the defendants 1-6**).
2. Shri. Pa Hmingthanga, E.E. Aizawl Water Supply Project division, PHED (Hereinafter referred to as **DW-2 for the defendant 1-6**).

**DW- 1 for the defendant 1-6** stated in his examination in chief that the plaintiff's alleged LSC No. Azl-4185 of 1986 was issued directly without obtaining prior approval of the Government, hence the same is not valid. Also as the land covered by the said LSC overlapped Shop Pass No. 200/72 and 302/72, it is liable to be cancelled. He deposed that after Show Cause Notice was served to the plaintiff on 18.4.02 and no reply was received from the plaintiff, it was only then that the Revenue Department proceeded to cancel the said LSC. He further deposed that-

Ext.D-1(a) is the signature of the Pu T. Rohmingliana, the then Joint Secretary, Revenue Deptt.

Ext.D-2 is a copy of the letter to the plaintiff dated 18.4.02.

Ext.D-3 is a copy of order of Revenue Deptt.

Ext.D-4 is a copy of list of House sites.

Ext.D-5 is a copy of letter dated 4.5.88 by Under Secretary, Revenue Deptt. to Director.

Ext.D-6 is a copy of office order dated 12.11.01.

Ext.D-7 is a copy of notification dated 9.6.1960.

During his cross examination, he stated as a fact that the LSC No. 4185 of 1986 was issued by the Revenue Deptt in favour of Lalchhuanvela and the same was purchased by Lalbiakthanga and name was transferred in the year 1999. He stated that the plaintiff was requested to look for vacant land in the place of land covered by LSC No.Azl- 4185 of 1986 but the land which was shown by the plaintiff was already allotted to another persons and the same could not be allotted to the plaintiff in place of LSC No.Azl- 4185 of 1986. He further stated that no alternate site has been allotted the plaintiff till date to his knowledge. From the records maintained by the Revenue Deptt the person applied for LSC to the Revenue Deptt was Lalchhuanvela. Whenever same plot of land has been allotted to two

persons, it is the practice of the Revenue department to allot alternate site to the person holding the Pass/LSC junior in time. He also denied as a fact that the said LSC was issued in conformity with land laws applicable to Mizoram at the time of issuance of LSC in favour of Lalchhuanvela. He also stated as a fact that the Government is ready to give alternate site if vacant land is available for allotment to Lalbiakthanga in lieu of LSC No. Azl- 4185 of 1986.

The **DW-2 for defendants 1-6** stated in his examination in chief that in accordance with the requirement of land submitted by the PHE department for construction of Booster Station for Durtlang Water Supply, Notification No. K-15011/84/99-REV Dt. 06.03.2007 under section 4 of Land Acquisition Act, 1894 was issued by the District Collector, Aizawl for acquisition of land. Award No. 9 of 2007 was made and pronounced by the District Collector/Deputy Commissioner, Aizawl by which PHE department deposited Rs. 17,41,871/- (Rupees Seven lakhs forty one thousand eight hundred and seventy one) only to the District Collector. After disbursement of the said amount to the interested five land owners, an order was issued for possession of the land on 8<sup>th</sup> April, 2008 free from all encumbrances. He further deposed that since the acquiring department has already made payment as per Award No.9 of 2007, the answering PHED felt that they became absolute owner of the disputed land. Also mentions that the LSC No.Azl-4185 of 1986 belonging to the plaintiff/petitioner, Lalbiakthanga has already been cancelled by the competent authority vide Order dated 9<sup>th</sup> January, 2003.

During his cross examination **DW-2 for defendants 1-6** deposed that the PHE had informed the District Collector/Deputy Commissioner regarding the requirement of land for construction of Booster Pumping Station at Bawngkawn to Durtlang Road. He also stated that his Department did not have any knowledge about the land owners of the said area and neither does he himself know the location and area of the plaintiff LSC No.Azl-4185 of 1986. He further stated that if the plaintiff is to be awarded compensation due to the acquisition, it is the liability of the District Collector to pay the same as the department of PHE had already deposited the amount to the concerned authority and hence it is the liability of the District Collector if compensation was wrongly awarded to another persons other than the plaintiff.

He further stated that if the plaintiff is to be awarded compensation due to the acquisition, it is the liability of the District Collector to pay the same as the department of PHE had already deposited the amount to the concerned authority and hence it is the liability of the District Collector if compensation was wrongly awarded to another persons other than the plaintiff.

### **TERMS OF ARGUMENTS**

At the time of arguments, the admitted facts germinated as follows-



1. The land covered by LSC No. Azl-4185 of 1986 is similar with the land covered by Shop Pass Nos. 2000/72, 192/72 and 302/72.
2. As the Hon'ble Gauhati High Court upheld the validity of Shop Pass Nos. 2000/72, 192/72 and 302/72 in connection with Civil Rule No. 1400 of 1988 on 11.8.1988, the impugned order under memo no. T. 15016/16/88- DISP/DTE (REV) Dated Aizawl, the 9<sup>th</sup> Jan/2003 marked as Ext. P- 6 was made for cancellation of LSC No. Azl-4185 of 1986.
3. Although the plaintiff was offered to seek alternative land, the landed portion applied by the plaintiff was already allotted to the other private person.
4. As per the Land Acquisition Act, the rightful owner of the suit land already received compensation from the government.

## **FINDINGS**

### **Issue No. 1**

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

A requisite court fees at Rs. 5000/- is paid by the plaintiff in his plaint. Meanwhile, verification supported by affidavit is made by the plaintiff in terms of the provisions of sub- rule (4) of rule 15 under Order VI of the CPC. Meanwhile, exemption order from prior legal notice was also passed on 7.12.2007 due to urgency of the case. Thus, this issue is decided in favour of the plaintiff.

### **Issue No. 2**

#### **Whether there is any cause of action in favour of the Plaintiff against the defendants.**

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.”

The admitted facts during arguments determines that there is a cause of action in favour of the plaintiff as the LSC No. Azl-4185 of 1986 was

issued by the Revenue Department to Mr. Lalchhuanvela and possessed and owned by the plaintiff by purchasing the same.

## **Issue No. 2**

### **Whether the Plaintiff has any locus standi to file the present suit.**

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, the admitted facts during arguments determines that there is a cause of action in favour of the plaintiff as the LSC No. Azl-4185 of 1986 was issued by the Revenue Department and possessed and owned by the plaintiff. In view of loss occurred like expenditure for purchasing the suit land, there should be a remedy at least whilst it was the wrong committed by the Revenue Department for issuance of LSC No. Azl-4185 of 1986.

### **Issue No. 3**

**Whether the Plaintiff has a cause of action as the holder of LSC No. Azl- 4185 of 1986. If so, whether it was duly issued according to procedure established by law.**

Ext. P- 1 is a copy of LSC No. Azl- 4185 of 1986 issued by the Revenue authorities by virtue of Section 11 of the Mizo District (Land and Revenue) Act, 1986. Undisputedly it was put in their official record. Except overlapped with Shop Pass No. 200/72 belonging to Pu Vanlalduha, Shop Pass No. 192/72 belonging to Pu Lalhmingthanga and Shop Pass No. 302/72 belonging to Pu Chawikunga, no infirmity for its issuance was found. As elicited by its facet, the LSC of the plaintiff was issued under section 11 of the Mizo District (Land and Revenue) Act, 1956 which reads as under

**“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.”

The LSC of the plaintiff exhibited during the proceedings were issued as per the prescribed form under Appendix- ‘A’ of the Mizo District (Land and Revenue) Rules, 1967. Whether a direct LSC or not, It will be answered by the recent observations of Hon’ble Supreme Court in **Lalrivenga & Anr. vs State Of Mizoram & Ors.** decided on 13 September, 2011 in connection with Civil Appeal No. 7825 of 2011 (Arising out of SLP(C) No.18850 of 2006), the Supreme Court has held that-

“14. We also agree with Shri Mukherjee that the Land Settlement Certificates issued in favour of the appellants could not have been cancelled on the ground that the same were issued without the sanction or approval of the competent authority. The respondents have not controverted the appellants' assertion that vide order dated 18.1.1983, respondent No.2 had authorised the Assistant Settlement Officer-II to process and decide the applications for grant of the Land Settlement Certificates. It is also not in dispute that the appellants had purchased land in 1984 and the Settlement Officer had issued the Land Settlement Certificates in 1987 after duly scrutinizing the applications made for that purpose.”

Indispensably, the plaintiff with LSC No. Azl- 4185 of 1986 have a cause of action against the defendants in the instant case.

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

**Whether the LSC No. Azl- 4185 of 1986 overlapped Shop Pass No. 200/72 belonging to Pu Vanlalduha, Shop Pass No. 192/72 belonging to Pu Lalhmingthanga and Shop Pass No. 302/72 belonging to Pu Chawikunga.**

Admittedly and undisputedly during arguments, LSC No. Azl- 4185 of 1986 overlapped Shop Pass No. 200/72 belonging to Pu Vanlalduha, Shop Pass No. 192/72 belonging to Pu Lalhmingthanga and Shop Pass No. 302/72 belonging to Pu Chawikunga.

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

**Whether cancellation of LSC No. Azl- 4185 of 1986 dated 9<sup>th</sup> Jan, 2003 is valid order or not.**

The impugned cancellation order under memo no. T. 15016/16/88-DISP/DTE (REV) Dated Aizawl, the 9<sup>th</sup> Jan/2003 marked as Ext. P- 6 was a speaking order as the Hon'ble Gauhati High Court upheld the validity of Shop Pass Nos. 2000/72, 192/72 and 302/72 in connection with Civil Rule No. 1400 of 1988 on 11.8.1988 and promulgated the same in compliance with the said judicial order. No challenge remain ahead during arguments advanced by parties at the time of oral arguments. Ext. D-1 also elicited that show cause notice was also duly served to the plaintiff for cancellation of his LSC.

#### **Issue No. 6**

**Whether the plaintiff is entitled to the relief claim or not. And if so, to what extent.**

Undisputedly, no other relief except alternative landed property with equivalent market value of LSC No. Azl- 4185 of 1986 can be granted to the plaintiff as no other possible measures can be taken whilst the landed property covered by LSC No. Azl- 4185 of 1986 is similar with the landed properties under Shop Pass No. 200/72 belonging to Pu Vanlalduha, Shop

Pass No. 192/72 belonging to Pu Lalhmingthanga and Shop Pass No. 302/72 belonging to Pu Chawikunga and were already paid compensation for their land acquisition after cancellation of the said LSC No. Azl- 4185 of 1986 in compliance with the judgment & order of Hon'ble Gauhati High Court in connection with Civil Rule No. 1400 of 1988 on 11.8.1988.

### **ORDER**

UPON hearing of parties and on the basis of the afore findings in various issues, it is hereby ORDERED and DECREED that the defendants 1-5 are directed to allot alternative alternate landed property with equivalent market value of LSC No. Azl- 4185 of 1986 but which will not deprive others right to property during a reasonable period of time. No order as to costs.

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 29<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. TS/23/2007, Sr. CJ (A)/

Dated Aizawl, the 29<sup>th</sup> June, 2012

Copy to:

1. Mr. Lalbiakthanga, s/o Zuhrima(L), c/o Ms. K. Malsawmi, Tlangnuam Road, Opp. Catholic Church, Kulikawn, Aizawl.
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. The Deputy Commissioner cum Collector, Aizawl District, Aizawl through Mr. R. Lalremruata, AGA
7. The Chief Engineer, PHE Deptt., Mizoram, Aizawl through Mr. R. Lalremruata, AGA
8. Mr. Dokhuma, s/o Chawnkaia, Chaltlang, Aizawl.
9. Mr. Chawikunga, s/o Chawithanga, Chaltlang, Aizawl.
10. Mr. Lalramthara, s/o Dengkhumi, Chanmari, Aizawl.

11. Mr. Liankhuma, s/o China, Chaltlang, Aizawl.
12. Mr. R. Vanlalruata, s/o R. Satlana, Upper Bazar, Aizawl.
13. Mr. Vanlalduha, s/o Rosema, Chaltlang, Aizawl.
14. Ms. Thanbuaii, w/o R. Satlana(L), Upper Bazar, Aizawl.
15. Mr. Lalhmingthanga, s/o Khawkunga, Chaltlang, Aizawl.
16. Case record

PESKAR