

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

EXECUTION CASE NO. 76 OF 2011

[IN MONEY SUIT NO. 67 OF 2010]

Decree holder:

Mr. Jesse Lalrinawma
S/o Rozama (L)
Prop. Zoram Computer Clinic
Chanmari: Aizawl

By Advocates : 1. Mr. Lalhriatpuia
2. Mr. Lalrammuana Khawlhing

Versus

Judgment Debtor:

Smt. Hmingthanmawii
D/o Ngurluaia
Laipuitlang- Aizawl

By Advocate's : _____

Date of hearing : 09-11-2012

Date of Order : 09-11-2012

BEFORE

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

ORDER

This is an execution petition filed by Mr. Jesse Lalrinawma against Smt. Hmingthanmawii to realize the judgment & decree passed by this court Dt. 03-03-2011 in Money Suit No. 67 of 2010, wherein decree was passed that-

“the plaintiff’s is decreed at Rs. 3,90,000/- (Rupees three lakhs ninety thousand) with interest rate at 10% per annum with effect from 14/12/2010 when institution of the suit. Due to fair admission and cooperative attitude of the defendant towards timely and fairly justice, no order as to costs of the suit. As covenanted in her submission, the said Rs. 3,90,000/- (Rupees three lakhs ninety thousand) with interest rate at 10% per annum with effect from 14/12/2010 till realization shall be paid to the plaintiff by the defendant within ninety days from the date of this order.”

Since the judgment debtor failed to comply with the above judgment & decree, the instant execution case is filed, moreover, the judgment debtor neither to appear nor file written objection even for attachment of her LSC No. Azl. 196 of 1974.

The contumacious act of the judgment debtor's reminds me one holistic observations of Hon'ble Supreme Court in **Maninderjit Singh Bitta vs Union Of India & Ors.** decided on 13 October, 2011 in connection with IA No.10 of 2010 in Writ Petition (Civil) No.510 of 2005, their Lordship of Hon'ble Supreme Court has held that-

“13. It is also of some relevancy to note that disobedience of court orders by positive or active contribution or non-obedience by a passive and dormant conduct leads to the same result. Disobedience of orders of the court strikes at the very root of rule of law on which the judicial system rests. The rule of law is the foundation of a democratic society. Judiciary is the guardian of the rule of law. If the Judiciary is to perform its duties and functions effectively and remain true to the spirit with which they are sacredly entrusted, the dignity and authority of the courts have to be respected and protected at all costs (refer T.N. Godavarman Thirumulpad's case [(2006) 5 SCC 1]).”

Thus, since there is no option except to uphold the sanctity of courts and its efficaciousness towards the honouring the democratic foundation of India, by virtue of O. XXI, R. 32 of the CPC and as held by the Hon'ble Supreme Court in **Hungerford Investment Trust Ltd. (In voluntary Liquidation) v. Haridas Mundhra & Ors.**, AIR 1972 SC 1826 and in **Kanwar Singh Saini vs High Court Of Delhi** decided on 23 September, 2011 in connection with Criminal Appeal No. 1798 of 2009. Attachment of LSC No. 416 of 1983 with an area of 0.16 bighas located at Tuikual 'B', Aizawl belonging to the judgment debtor is inevitable and is therefore attached.

As compelled by her own action of the judgment debtor's in the dilemma but without choice and by virtue of the law settled by casting duty of police by the Division Bench of Hon'ble Gauhati High Court in the case of **Utpal Kumar Das vs Court Of The Munsiff No. 1, Kamrup** decided on 30/8/2007 in connection with Writ Petition (C) No. 3696 of 2007 and reported in AIR 2008 Gau 62, 2007 (4) GLT 625 like in the execution proceedings. In that case, when the police officials betrayed the execution directions of the court, both contempt case and disciplinary action can be enmeshed. Thus, the Officer in Charge, Bawngkawn Police Station, Aizawl is kindly directed to seize original and duplicate copy of LSC No. Azl. 196 of 1974 belonging to the judgment debtor and to submit the same to this court on or before the date fixed as below to impound the same in the court.

The Officer in Charge, Bawngkawn Police Station, Aizawl is further directed to prosecute and bring into justice any culprit who violates this

attachment order if any by any means under section 188 of the Indian Penal Code (No. 45 of 1860).

The Officer in Charge, Bawngkawn Police Station is also kindly directed to submit a report thereof and to a copy of LSC No. Azl. 196 of 1974 to this court on or before the date fixed as below-

Fixed- 03-12-2012 for deposit of LSC No. Azl. 196 of 1974 and a report of execution to be submitted by the Officer in Charge, Bawngkawn Police Station.

As soon as realization of the said outstanding decretal amount, the said attachment will be seceded. Failure to make payment of the same by the judgment debtor even after attachment of the said document, further appropriate mode of execution will remain lies to the judgment debtor like sale and auction of the attached property.

Give this copy to both parties and all concerned.

Dr. H.T.C. LALRINCHHANA

Senior Civil Judge- 1
Aizawl District: Aizawl

Memo No. EC/76/2011, Sr. CJ (A)/

Dated Aizawl, the 9th Nov., 2012

Copy to:

1. Mr. Jesse Lalrinawma S/o Rozama (L), Prop. Zoram Computer Clinic, Chanmari: Aizawl through Mr. Lalhriatpuia, Advocate
2. Smt. Hmingthanmawii D/o Ngurluaia, Laipuitlang- Aizawl through Mr. Lalhriatpuia, Advocate
3. Officer in Charge, Bawngkawn Police Station, Aizawl for kind necessary action through Mr. Lalhriatpuia, Advocate
4. Case record

PESKAR