

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

MONEYSUIT NO. 62 OF 2012

Plaintiffs:

1. Mr. Lalnuntlinga
C-92, Salem Veng, Aizawl
2. Mr. H. Lalnghakzuala
Lawngtlai-V, Mizoram
3. Mr. K. Lalrinchhana
Mulco Quarters
Thuampui - Aizawl
4. Smt. Ronguri
ITI Veng, Aizawl
5. Smt. Rozuali
Hmar Veng, Serchhip
6. Smt. Lalnunpuii
Chhim Veng, Serchhip
7. Smt. Lalchelhi
Venglai- Serchhip
8. Smt. Lalrinmawii
Chaltlang Dawrkawn

By Advocates

- : 1. Mr. L.H. Lianhrima
2. Mr. Lalhriatpuia
3. Mr. Lalbiakdika Sailo

Versus

Defendants:

1. Mr. Thangliana
Prop. Linktel Broadband Internet Civil Foundation
Structure and Electrical
H/No. 22, Ramhlun South, Aizawl
2. The Regional Manager
Linktel
A Unit of SI Pvt. Ltd.
Hatigaon, Naharani Path
House No. 23, Guwahati- 28

3. Lingktel (Sister Concern of Cam Enterprise)
A Unit of SI Pvt. Ltd.
Hatigaon, Naharani Path
House No. 23, Guwahati- 28

By Advocates : _____

Date of hearing : 14-11-2012

Date of Judgment & Order : 14-11-2012

BEFORE

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

JUDGMENT & ORDER

BRIEF STORY

This is a suit for recovery of Rs. 44,10,000/- (Rupees forty four lakhs and ten thousand) with interest rate @ 18% per annum from the defendants. The plaintiffs were appointed as sub-contractor by the defendant no. 1 under the Linktel Broadband Internet Civil Foundation, Structure and Electrical and done construction of towers for the defendants in various places in the state of Mizoram but the defendants failed to realize their bill amounts leading their heavy debts although legal notice was duly served. The plaintiffs therefore prays that (i) a decree declaring the plaintiffs are entitled to receive their bill amounts to Rs. 44,10,000/- (Rupees forty four lakhs and ten thousand) for the construction of Linktel Towers from the defendants (ii) a decree declaring that the plaintiffs are entitled to receive Rs. 1,00,000/- each for mental suffering etc. (iii) any other decree/decrees which this court deems fit and proper.

Although summons were duly served as returned of service of summons, the defendants neither appeared nor filed written statements till 5/10/2012 while the suit is filed on 2/7/2012, thus, by virtue of O. VIII, R. 10 of the CPC, ex parte proceedings is drawn.

POINTS FOR DETERMINATION

Although ex parte proceedings as held in **Ramesh Chand Ardawatiya vs Anil Panjwani** decided on 5 May, 2003 and reported in AIR 2003 SC 2508, 2003 (4) ALD 10 SC, the following points should determine the case such as-

1. Whether the suit is maintainable or not.
2. Whether the plaintiffs are entitled to the relief claimed or not if so, to what extend.

BRIEF ACCOUNT OF EVIDENCE

Although the suit is ex parte proceedings, evidence of the plaintiff is called upon for the satisfaction of the court as held in **Smt. Sudha Devi vs M.P. Narayanan & Ors** decided on 26 April, 1988 and reported in 1988 AIR 1381, 1988 SCR (3) 756, it was held that-

“6. On the failure of the defendants to appear in the suit, the learned trial Judge decided to proceed with the case ex-parte. Even in absence of a defence the court cannot pass an ex-parte decree without reliable relevant evidence. The fact that the plaintiff chose to examine some evidence in the case cannot by itself entitle her to a decree.”

The lone PW namely- Mr. Lalnuntlinga merely reiterated and affirmed the contents of the plaint, none remain contested to cross examine and to hear further from the defendants.

FINDINGS

Point No. 1

Whether the suit is maintainable or not.

Ad-valorem court fees in tune with the provision of the Court Fees (Mizoram Amendment) Act, 1996 (Act No. 5 of 1997) is paid. Meanwhile, the plaintiff affirmed the contents of the plaint in terms of 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.

Point No. 2

Whether the plaintiffs are entitled to the relief claimed or not if so, to what extend.

As no evidence which negate evidence of the plaintiffs is found, the plaintiffs will certainly entitled to receive Rs. 44,10,000/- (Rupees forty four lakhs and ten thousand) with reasonable rate of interest @ 13% per annum with effect from 2/7/2012 with other reasonable rate of costs of the suit.

ORDER

Thus, it is hereby ORDERED and DECREED that the defendants (who are jointly liable) are directed to pay Rs. 44,10,000/- (Rupees forty four lakhs and ten thousand) with interest @ 13% per annum with effect from 2/7/2012 till realisation in full. The defendants are further directed to pay costs of the suit at Rs. 25,000/- (Rs. 20,000/- as lawyers fee + Rs. 5,000/- as court fees) with an interest rate at 13% per annum with effect from today till realisation. The defendants are further directed to realize the said amount within two months from the date of this order.

With this order, the case shall stand disposed of.

Give this copy to both parties along with decree.

Given under my hand and seal of this court on this 14th Nov., 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. MS/62/2012, Sr. CJ (A)/

Dated Aizawl, the 14th Nov., 2012

Copy to:

1. Mr. Lalnuntlinga, C-92, Salem Veng, Aizawl & Ors.
2. Mr. Thangliana Prop. Linktel Broadband Internet Civil Foundation, Structure and Electrical, H/No. 22, Ramhlun South, Aizawl
3. The Regional Manager, Linktel, A Unit of SI Pvt. Ltd., Hatigaon, Naharani Path, House No. 23, Guwahati- 28
4. Linktel (Sister Concern of Cam Enterprise), A Unit of SI Pvt. Ltd., Hatigaon, Naharani Path, House No. 23, Guwahati- 28
5. P.A to Hon'ble District Judge, Aizawl Judicial District
6. Case record

PESKAR