

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

TITLE SUIT NO. 29 OF 2012

Plaintiff:

State Bank of India
Aizawl Branch- Aizawl
Represented by Assistant General Manager

By Advocates : 1. Mr. M.M. Ali
2. Mr. H. Lalremruata

Versus

Defendants:

1. Mr. Zothansanga
S/o Rohmingiana
H.No. 50-E, Khatla-II
Aizawl

2. Dr. Vanlalchhuanga
S/o Rohmingiana (L)
Khatla-II, Aizawl

By Advocate's : Mr. R. Lalhmingmawia

Date of hearing : 02-11-2012
Date of Judgment & Order : 02-11-2012

BEFORE

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

JUDGMENT & ORDER

This is a suit for foreclosure and sale of the mortgaged landed properties under LSC No. Azl. 838 of 1989 belonging to the defendant no. 1 and also a preliminary decree for payment of loan amount at Rs. 4,41,639/- (Rupees four lakhs, forty one thousand, six hundred and thirty nine) with interest rate at 12.25% per annum with effect from 01-04-2012 till realization meant to redemption of the mortgaged property. The plaintiff constituted under the State Bank of India Act, 1955 carrying business under the Banking Regulation Act, 1949 sanctioned secured loan amounting to Rs. 3,00,000/- to the defendant no. 1 by mortgaging LSC No. Azl. 838 of 1989 belonging to the defendant no. 1 with an interest rate at 12.25% per annum by executing agreement Dt. 15th Sept., 2008. Since the

defendants breach the agreement for repayment of the said amount. The instant suit had arisen. The ad-valorem court fees at Rs. 7,300/- is also paid by the plaintiff.

Learned counsels of both parties appeared, Mr. R. Lalhmingmawia, learned counsel for the defendant fairly admitted their liabilities including foreclosure and sale of their mortgaged property. He rather submitted to foreclose and sale of their mortgaged property under LSC No. Azl. 838 of 1989 belonging to the defendant no. 1 without preliminary decree for giving chance to redeem the same as they are not in a position to redeem the same.

Upon hearing of both parties and on perusal of case records, I am satisfied that no issues on any question of law or of fact had arisen in the instant suit for further proceeding of the case. O. XII, R. 6 of the CPC reads thus-

“6. Judgment on admissions— (1) Where admissions of fact have been made either in the pleading or otherwise, whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may think fit, having regard to such admissions.

(2) Whenever a judgment is pronounced under sub-rule (1) a decree shall be drawn upon in accordance with the judgment and the decree shall bear the date on which the judgment was pronounced.”

Reliance may also be taken in **Divisional Manager, United India Insurance Co. Ltd. and Anr. Vs. Samir Chandra Chaudhary** in connection with Appeal (civil) 3663 of 2005 decided on 14/07/2005 reported in 2005 (1) Suppl. SCR 613, 2005 (5) SCC 784, 2005 (5) SCALE 470, 2005 (6) JT 289, it was held that-

“The effect of admission is that it shifts the onus on the person admitting the fact on the principle that what a party himself admits to be true may reasonably be presumed to be so, and until the presumption is rebutted, the fact admitted must be taken to be established. An admission is the best evidence that an opposing party can rely upon, and though not conclusive is decisive of matter, unless successfully withdrawn or proved erroneous. (See *Narayan Bhagwantrao Gosavi Balajiwale v. Gopal Vinayak Gosavi and Ors.*, AIR (1960) SC 100).”

Thus, the mortgaged properties of the defendants under LSC No. Azl. 838 of 1989 belonging to the defendant no. 1 is hereby foreclosed in favour of the plaintiff and in terms of their agreement Dt. 15th Sept., 2008. The Assistant General Manager, State Bank of India, Aizawl Main Branch - Aizawl is therefore kindly appointed to conduct sale and auction of the said properties

and to file an application if the net proceeds of such sale would found insufficient to pay the amount due to the plaintiff by virtue of O. XXXIV, R. 6 of the CPC.

With the above terms, the case shall stand disposed of.

Give this copy along with decree to both parties.

Given under my hand and seal of this court on this 2nd 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. TS/29/2012, Sr. CJ (A)/

Dated Aizawl, the 2nd Nov., 2012

Copy to:

1. State Bank of India, Aizawl Branch- Aizawl Represented by Assistant General Manager through Mr. M.M. Ali, Advocate
2. Mr. Zothansanga S/o Rohminglana, H.No. 50-E, Khatla-II, Aizawl through Mr. M.M. Ali, Advocate
3. Dr. Vanlalchhuanga S/o Rohminglana (L), Khatla-II, Aizawl through Mr. M.M. Ali, Advocate
4. P.A. to Hon'ble District Judge, Aizawl Judicial District: Aizawl
5. Case record

PESKAR