

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

CIVIL SUIT NO. 83 OF 2012

Plaintiff:

Mizoram Rural Bank
Treasury Square Branch, Aizawl
Represented by its Branch Manager

By Advocate's : Mr. L.R. Thuanga

Versus

Defendants:

1. Smt. Lalfakzuali
Prop. M/S El Cee Enterprise
Bazaar Bungkawn, Aizawl
2. Mr. Lianhmingthanga
S/o Thansanga (L)
Chhangurkawn, Luangmual
Aizawl- Mizoram
3. Mr. Thankunga
S/o Selsavunga
Vengchhak, Hualngohmun
Aizawl District

By Advocate's : _____

Date of hearing : 23-10-2012

Date of Judgment & Order : 23-10-2012

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. 105206/01/182 of 2005 belonging to the defendant no. 3 and also a preliminary decree for payment of loan amount at Rs. 5,31,008/- (Rupees five lakhs, thirty one thousand and eight) with interest rate at 13.75 % per annum with effect from 18-08-2012 till realization meant to redemption of the mortgaged property.

Learned counsel for the plaintiff and the defendant no. 1 in person appeared, the defendants admitted the averments and submissions in the plaint in toto and the defendant no. 3 is also her father using his LSC for mortgage with permission.

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, as inevitably, preliminary decree is opined to pass on today in the following terms.

By taking reliance in the case of **Kumar Sudhendu Narain Deb vs Mrs. Renuka Biswas And Ors** decided on 13 November, 1991 and reported in 1992 AIR 385, 1991 SCR Supl. (2) 233, preliminary decree in the following terms is granted/awarded that the amount due to the plaintiff on the mortgage mentioned in the plaint calculated up to 17.08.2012 is the sum of Rs. 5,31,008/- (Rupees five lakhs, thirty one thousand and eight) with interest rate at 13.75 % per annum with effect from 18-08-2012 till realization, the sum of Rs. 5000/- for costs, charges and expenses (other than the costs of the suit) properly incurred by the plaintiff in respect of the

mortgage-security, together with interest thereon, and the sum of Rs. 18,324/- (Rs. 8,324/- for court fees stamp + Rs. 10,000/- for Pleader's fee) for the costs of this suit awarded to the plaintiff with 13.75% interest per annum with effect from this day till realization. And it is hereby ordered and decreed that the defendants do pay into Court on or before for 23rd Nov., 2012 or any later date up to which time for payment may be extended by the Court of the said sum till realization.

To epitomize, if the defendant remains fail to make repayment of the above accrued amount on or before 23rd Nov., 2012, the said mortgage landed property will be liable to foreclosure and sale as final decree.

Parties also have a right to approach the court when changes of the circumstances and situations occur even during the above stipulated period. Preliminary decree shall be drawn forthwith.

Give this copy along with preliminary decree to both parties.

Given under my hand and seal of this court on this 23rd Oct., 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. CS/83/2012, Sr. CJ (A)/

Dated Aizawl, the 23rd Oct., 2012

Copy to:

1. Mizoram Rural Bank, Treasury Square Branch, Aizawl Represented by its Branch Manager through Mr. L.R. Thuanga, Advocate
2. Smt. Lalfakzuali Prop. M/S Ell Cee Enterprise, Bazaar Bungkawn, Aizawl through Mr. L.R. Thuanga, Advocate
3. Mr. Lianhmingthanga S/o Thansanga (L), Chhangurkawn, Luangmual Aizawl- Mizoram through Mr. L.R. Thuanga, Advocate
4. Mr. Thankunga S/o Selsavunga, Vengchhak, Hualngohmun, Aizawl District through Mr. L.R. Thuanga, Advocate
5. Case record

PESKAR