

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

CIVIL SUIT NO. 77 OF 2009

Plaintiffs:

1. Smt. Zatawni  
D/o Chhiarauva  
Hnahlan
2. Mr. Zavura  
S/o Chalkuala  
Hnahlan
3. Mr. Ralthuama  
S/o Hranghlira  
Hnahlan
4. Mr. Lalramnunmawia  
S/o Kaplura  
Hnahlan
5. Mr. Thangruala  
S/o Seiduha  
Hnahlan
6. Mr. Changliana  
S/o Salthuama  
Hnahlan
7. Mr. Lalduhawma  
S/o Lianthanga  
Hnahlan
8. Mr. Lalbiakthanga  
S/o Salchhunga  
Hnahlan
9. Mr. Ngurliansiama  
S/o Zoliankhama  
Hnahlan
10. Mr. C. Vanlalhriata  
S/o Khawtindala  
Hnahlan
11. Mr. C. Laltlanzuala  
S/o Sathranga  
Hnahlan

12. Smt. Zenbawihi  
D/o Chinvunga  
Hnahlan
13. Mr. Vanlalruma  
S/o Hrangliana  
Hnahlan
14. Smt. Vungkhanniangi  
D/o V.L. Siana  
Hnahlan
15. Mr. P.C. Lianhlira  
S/o Khuangdailozoa  
Hnahlan
16. Smt. Ramnunmawia  
S/o Zakunga  
Hnahlan
17. Mr. Vanlalringa  
S/o Vawmthianga  
Hnahlan
18. Mr. Piantiauva  
S/o Taivela  
Hnahlan
19. Mr. C. Lalramliana  
S/o Hrangthiaua  
Hnahlan
20. Mr. Ngokhanthanga  
S/o Singchina  
Hnahlan
21. Mr. Hrangkhuma  
S/o Thankima  
Hnahlan
22. Smt. Zoramthangi  
D/o Laldawla  
Hnahlan
23. Mr. Zanghilhlova  
S/o Thuamkunga  
Hnahlan
24. Smt. Nemkhanniangi  
D/o Amzatuna

Hnahlan

25. Mr. Lalsangliana  
S/o Rangchhinga  
Hnahlan
26. Mr. K. Hmangaihzama  
S/o Thangzauvi  
Hnahlan
27. Mr. Lianhmingthanga  
S/o Thangzauvi  
Hnahlan
28. Smt. Lalchhawni  
D/o Thangkhuma  
Hnahlan
29. Mr. Rothuama  
S/o Zirtirliani  
Hnahlan
30. Mr. P.L. Phairosiama  
S/o P.C. Lianhlira  
Hnahlan
31. Mr. Chuaukunga  
S/o Lianhnuna  
Hnahlan
32. Mr. P. Lawmkima  
S/o Darkhuma  
Hnahlan
33. Mr. Tawnthanga  
S/o Pananga  
Hnahlan
34. Mr. Lalpuiha  
S/o Kapchhunga  
Hnahlan
35. Mr. Romawia  
S/o Tlangkhuma  
Hnahlan
36. Mr. K. Lalramnghaka  
S/o Chalthuama  
Hnahlan
37. Mr. Ramthamghaka

S/o Taithuama  
Hnahlan

38. Smt. Nuamzachingi  
D/o Kappia  
Hnahlan

39. Smt. Dorikhuma  
D/o Salthuama  
Hnahlan

40. Smt. Rallianchhawni  
D/o Mangpuia  
Hnahlan

41. Mr. P. Tlangruala  
S/o Darkhuma  
Hnahlan

42. Mr. C. Lalaudinga  
D/o Saichhama  
Hnahlan

43. Smt. Thiangkawlihi  
D/o Mangkaia  
Hnahlan

44. Mr. Lalruata  
S/o Thanngura  
Hnahlan

*By Advocates*

: 1. Mr. B. Lalramenga  
2. Mr. J.C. Lalnunsanga

*Versus*

*Defendants:*

1. Secretary to the Govt. of India  
Ministry of Surface Transport  
Transport Bhawan-1  
Sansad Marg  
New Delhi- 110001

2. The Secretary  
BRDB  
Sena Bhawan  
New Delhi, 110011

3. The Chief Engineer  
Project Puspak

Zemabawk, C/o 99 APO

4. The Commander  
74 BRTF (GREF)  
C/o 99 APO

5. The Officer Commanding  
74 RCC (GREF)  
C/o 99 APO  
Zotlang, Champhai- Mizoram

*By Advocate's* : Mr. S.N. Meitei

Date of Arguments : 30-10-2012

Date of Judgment & Order : 31-10-2012

### **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 their plaint submitted that their properties located at their respective Village Council pass were damaged and destroyed by the defendants for construction of a new approach road from Champhai-Hnahlan-Khuangphah but no compensation was paid by the defendants. They themselves also calculated their claimed quantum of damaged properties in their plaint. The plaintiffs therefore prayed that (i) a decree declaring that the plaintiffs are entitled to payment of compensation by the defendants for their illegal construction roads through their plot of lands and for damages caused to their landed properties, houses, crops and trees lying within their plot of lands (ii) a decree directing the defendants to pay a suitable amount of compensation to the plaintiffs as per norms presently followed by the Govt. of Mizoram for payment of compensation (iii) a decree directing the defendants to pay to the plaintiffs a pendent lite interest @ 12% per annum till final payment of compensation (iv) any other relief which this court deems fit and proper.

The defendants in their written statements contended that the suit is barred by law of limitation, the plaintiffs have no cause of action and locus standi. The Village Council Passes obtained by the plaintiffs were fake and fabricated as bulky issuance of village council passes at a time. As beyond the authority of the village council, passes of the plaintiffs were null and void as it was beyond the authority of the village council at Hnahlan. No objection certificate was executed by the plaintiffs pledging that they will not claimed any compensation on the instant road construction. Thus, prayed to dismiss of the suit.

## ISSUES

Issues were framed on 12.11.2010 and amended towards correctly adjudication of the lis as follows-

1. Whether the suit is maintainable in its present form and style
2. Whether the written statement of the defendants are maintainable or not
3. Whether the suit is barred by principles of acquiescence and estoppels or not
4. Whether the suit is bad for non-joinder of necessary parties or not
5. Whether the plaintiffs has cause of action against the defendants or not
6. Whether the suit is barred by law of limitation or not
7. Whether the plaintiffs were already compensated for the claim damages or not
8. Whether the plaintiffs has valid landed documents or not
9. Whether the plaintiffs are entitled to the relief claimed or not. If so, to what extend.

## BRIEF ACCOUNT OF EVIDENCE

For the plaintiff:

The plaintiffs had produced the following witnesses namely-

1. Mr. P. Lawmkima S/o Darkhuma, Hnahlan (Hereinafter referred to as PW-1)
2. Mr. P. Tlangruala S/o Darkhuma, Hnahlan (Hereinafter referred to as PW-2)
3. Mr. Changliana S/o Salthuama, Hnahlan (Hereinafter referred to as PW-3)
4. Mr. Taithuama S/o Lianthuama (L), Hnahlan (Hereinafter referred to as PW-4)
5. Mr. Lalduhawma S/o Lianthanga, Hnahlan (Hereinafter referred to as PW-5)

The **PW-1** in his examination in chief mainly reiterated and affirmed the contents of the plaint being the plaintiff himself. He further continued that-

Ext. P-1 is the plaint

Ext. P-2 and P-3 are his signatures

Ext. P-4 is also his signature

Ext. P-5 (1) to 5 (45) are a copies of the village council passes of the plaintiffs

Ext. P-6 (1) to 6 (44) are copies of their tax payment receipt

Ext. P- 7 is acknowledgement

Ext. P-8 is a copy of Legal Notice

Ext. P-9 is authorization executed by the plaintiffs in his favour

During cross examination, he stated that specification of their claim mentioned in the plaint were assessed by the plaintiffs themselves as self made. He admitted that around Feb., 2005, damages of their houses and crops were done. He also admitted that he did not know the area of his land.

The **PW-2** in his examination in chief also mainly reiterated and affirmed the contents of the plaint being the plaintiff himself.

During cross examination, he deposed that he constructed a house in 2005 and started in Feb., 2005. He utilized his land for cultivation also. Assessment submitted in their plaint was done by themselves. The BRTF started using Bulldozers and road rollers in Feb., 2005.

In his re-examination, he deposed that his house was constructed in 1998.

The **PW-3** in his examination in chief also mainly reiterated and affirmed the contents of the plaint being the plaintiff himself.

None appeared for cross examination

The **PW-4** in his examination in chief also mainly reiterated and affirmed the contents of the plaint being the plaintiff himself. He further deposed that Ext. P- 7 (a)-(zr) were his true signatures.

During cross examination, **PW-4** stated that except that the properties of the plaintiffs were damaged by the defendants but failed to pay compensation, he knows nothing more.

The **PW-5** in his examination in chief also mainly reiterated and affirmed the contents of the plaint being the plaintiff himself. He further exhibited that Ext. P- 5 (7) is issued to him by the village council of Hnahlan.

In his cross examination, he admitted that he is forgetful and cannot remember things after ten years. He denied that he had received compensation amount on the suit properties. Except Ext. P- 5 (7), he did not have any other documents on the suit land.

For the defendants:

The defendants had produced two witnesses namely-

1. Mr. Naresh Prasad S/o Rajendra Prasad (Hereinafter referred to as DW-1)
2. Mr. B.K. Mishra S/o Late Gauri Shankar Mishra (Hereinafter referred to as DW-2)

The **DW-1** in his examination in chief deposed that on the basis of the records and other knowledge which he gathered on his own, he make deposition. He is serving as OC, 74 RCC (GREF) at Champhai, Mizoram under Project Pushpak. Before construction of road between 39.5 Km and 57.75 km on Champhai – Hnahlan - Khungpha road, Reece survey and trace cutting was conducted by the BRO team during January, 2003 with

due cognizance by the village council President of Hnahlan, affected land owners/possessors and they confirmed and resolved that they would not claim compensation whatsoever against any damage/destruction during the course of construction of such approach road. It seems that the villagers welcomed the idea of such construction for their benefits. Since there was no objection/no claim certificates by the affected land owner/possessor, no assessment of the damage/compensation was made before or at the time of construction of the side road. Out of the total 44 plaintiffs, 21 plaintiffs have signed the no-objection/no claim certificate and this 21 plaintiffs were the persons whose land/property has been affected and the remaining are either relatives of some of the said 21 persons or who have allegedly derived the rights over such affected land from the said 21 persons.

Ext. D-1 is the list of persons who have signed no objection

Ext. D-2 is nominal roll of NOC for compensation of land obtained from the villagers for construction of Champhai-Hnahlan-Khuangphah road.

Ext. D-3 (1-28) are No objection certificates signed by the affected villagers whose names are highlighted in Annexure- Ext. D-2 in the presence of VCP and Magistrate 1<sup>st</sup> Class, Champhai District, Champhai.

Ext. D-4 is the Nominal roll of plaintiffs NOC obtained from the villagers for the instant construction

Ext. D-5 is nominal roll of plaintiffs whose father's names changed in house tax payee certificate in suit No. 77/2009

Ext. D-6 is the nominal roll of plaintiffs whose house tax payee certificate not enclosed in the suit

Ext. D-7 is the nominal roll of plaintiffs whose house tax payee certificate enclosed but their names not appeared in the suit.

In his cross examination, he deposed that he joined his post at Champhai in the month of May, 2010. As he was posted at Jammu and Kashmir, he was not present on the spot when construction was done. He admitted as a fact that the instant road construction remains continued till date. He have visited Hnahlan village. He admitted that is compensation need to be paid in respect of damages caused by the construction of road executed by them, there should be sanctioned amount for the same. The instant road construction was executed under the scheme of General Staff road which was for the requirement of Indian army. He admitted that NOC were obtained from the persons whose properties were to be affected by the road construction. He admitted that NOC were signed in 2004 although the instant road construction was started in 2003.

In his re-examination, he deposed that 28 persons executed NOC not 21.



The **DW-2** in his examination in chief deposed that he is 2 IC of 24 BRTF at Seling under Project Pushpak and gone through all the relevant documents available with the department and from all other possible sources with thorough discussed with his colleagues. He mainly affirmed deposition of DW-1 in his examination in chief.

In his cross examination, he stated that he was posted at Seling since 4<sup>th</sup> Aug., 2009 and the instant disputed construction was not executed by his company. He admitted that the instant cause of action was arose before he is posted at Mizoram. He admitted that he never visited Hnahlan village and the place of occurrence. The instant road construction was executed under the scheme of General Staff road which was for the requirement of Indian army. He did not know that whether the NOCs marked as Ext. D- 3 (1) to (28) were actually executed before the Magistrate First Class or not.

### **TERMS OF ARGUMENTS**

Mr. B. Lalramenga, learned counsel for the plaintiffs argued that the written statement without verification and affidavit is not tenable in law in terms of O. VI, R. 14 (4) of the CPC and cannot be acted upon. More so, the PWs denied of No Objection Certificate allegedly executed by the plaintiffs for construction of Champhai – Hnahlan - Khungpha road. Whilst the said construction was started in 2003, the alleged NOC was executed in 2004 is doubtful.

On the other hand, Mr. S.N. Meitei, learned counsels for the defendants contended that construction of Champhai – Hnahlan - Khungpha road was done in 2005 and the suit is filed belatedly in November, 2009 which is barred by Article 113 of the Schedule of the Limitation Act, 1963. The said Limitation Act is also applicable in the state of Mizoram. The exhibited Village Council passes clearly revealed that all the 44 passes has been issued only by two VCPs by bulky issuance in a time. The said passes were without boundary description. Mr. S.N. Métei thereby reiterated their submissions in their written statements.

### **FINDINGS**

#### **Issue No. 1**

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

A requisite court fees at Rs. 5000/- is make up as directed by the plaintiffs. Plaint is also accompanied by paragraph wise verification with affidavit.

#### **Issue No. 2**

#### **Whether the written statement of the defendants are maintainable or not**

As contended by Mr. B. Lalramenga, written statements of the defendants is without supported by affidavit and verification. In this lacunae, the provisions of sub- rule (4) of rule 15 under Order VI of the CPC was made effective before institution of the instant suit viz. with effect from

1-7-2002 by Act No. 46 of 1999. However, by virtue of section 21 of the Mizoram Civil Courts Act, 2005 (Act No. 11 of 2005), this bonafide mistake may not vitiate the proceedings whilst supported adequate evidence is adduced by the defendants coping with the contents of their written statement.

### **Issue No. 3**

#### **Whether the suit is barred by principles of acquiescence and estoppels or not**

Although the PWs simply denied that they did not execute any No-Objection Certificate in favour of the defendants for construction of Champhai – Hnahlan - Khungpha road, para 3 of their plaint elicited that the said construction was implemented in 2005. The PWs also corroborative deposed that their properties were damaged by the said construction during 2005. However, legal notice was served by the plaintiffs on 12<sup>th</sup> Dec., 2008 as revealed by Ext. P- 8.

In the meantime, as indicated by Ext. D-1 and Ext. D-2, most of the plaintiffs executed No-Objection Certificate pledging that they will not claim any compensation in respect of construction of Champhai – Hnahlan - Khungpha road. The following exhibits of DW-1 embarked susceptibility of the plaintiff's case which the plaintiffs fails to explain while burden of proof lies on the plaintiffs namely-

Ext. D-2 is nominal roll of NOC for compensation of land obtained from the villagers for construction of Champhai-Hnahlan-Khuangphah road.

Ext. D-3 (1-28) are No objection certificates signed by the affected villagers whose names are highlighted in Annexure- Ext. D-2 in the presence of VCP and Magistrate 1<sup>st</sup> Class, Champhai District, Champhai.

Ext. D-4 is the Nominal roll of plaintiffs NOC obtained from the villagers for the instant construction

Ext. D-5 is nominal roll of plaintiffs whose father's names changed in house tax payee certificate in suit No. 77/2009

Ext. D-6 is the nominal roll of plaintiffs whose house tax payee certificate not enclosed in the suit

Ext. D-7 is the nominal roll of plaintiffs whose house tax payee certificate enclosed but their names not appeared in the suit.

Ext. D-3 (1-28) particularly is executed before Magistrate First Class, Champhai District pledging not to claim any compensation and further deposed that it was made voluntarily and read over the contents thereof to them.

Whilst damaged of their properties were occurred during 2005 but belatedly aggrieved in December, 2008 for serving legal notice is not understandable, if the plaintiffs really dissatisfied with the act of the

defendants, they must contest in 2005 when damaging their properties by protested against the defendants.

In corollary of the above elaborations, by estoppels and doctrine of acquiescence, the plaintiffs may not have right to agitate in a very belated stage.

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

##### **Whether the suit is bad for non-joinder of necessary parties or not**

As per Notification No. K. 15013/69/99- REV, the 12<sup>th</sup> June, 2012 Vide, the Mizoram Gazette, Vol. XLI, 15.6.2012, Issue No. 24, assessment of rental charges and compensation on damaged properties and any other matter connected therewith shall be taken up by the Revenue Department alone, the Revenue Department may also entrust the task of verification of claims or rental charges/assessment of rental charge to any other agency or authority as it consider necessary. Meanwhile, disbursement of the sanctioned amount to the concerned land owners/families shall be taken up by the Deputy Commissioner's concerned subject to issue of clearance by the Administrative Department from time to time.

In the instant case, neither the Revenue Department, Govt. of Mizoram nor the Deputy Commissioner concerned were impleaded as defendants whilst the plaintiffs prayed a relief at the rates fixed by the Govt. of Mizoram. As admitted by PWs, their self assessment of damaged properties alone were with their plaint requiring further accurate assessment by employing expert hands as also admitted by Mr. B. Lalramenga at the time of argument.

So is the lacunae, if evidence and their circumstances of the case may weightage the case of the plaintiffs, how to pass effective, tuneful and accurate judgment and decree without array of Revenue Department, Govt. of Mizoram and the Deputy Commissioner concerned is the moot point cogently answerable as negative. The suit is therefore bad for non-joinder of necessary parties.

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

##### **Whether the plaintiffs has cause of action against the defendants or not**

In their village council passes exhibited during the proceedings, there was no location of their landed properties of the plaintiffs as well as no boundary description as contended by Mr. S.N. Meitei. Section 3 of the Lushai Hills District (House Sites) Act, 1953 reads thus-

#### **“3.Allotment of sites:**

- (1) Subject to the provisions of sub-section (2) of this section, a Village Council shall be competent to allot sites within its jurisdiction for residential and other non-agricultural purpose with the exception of shops and stalls which include hotels and other business houses of the same nature.

Notwithstanding anything contained in this Act, the Administrator shall have the power to intervene in all cases of disputes over any sites within the village, and the decision of the Administrator shall be final.

Provided that the Administrator may, at any time by notification, declare that any village or a particular locality is a protected area where allotment of sites shall be done by Village Council only with the previous approval of the Administrator.

- (2) The Administrator or any other person or body authorized in that behalf by the Administrator shall allot sites for residential and other non-agricultural purposes in Aizawl, Lunglei, Demagiri, Sairang, Kolasib, Champhai and Vanlaiphai and also sites for shops and stalls which may include hotels and other business houses of the like nature in places other than the said stations.
- (3) The Village Council, when site is allotted under sub-section (1) and the Administrator or any other person or body, authorized in that behalf by the Administrator when the site is allotted under sub-section (2) shall issue a patta and may incorporate therein in writing such conditions as may be reasonable in the interest of general public or of a Scheduled Tribe.
- (4) The authority issuing the patta on being satisfied on proof that any such condition or conditions incorporated in the Patta have been violated may cancel the Patta.

Provided that such authority instead of cancelling the Patta may impose a fine, when such authority is a Village Council, not exceeding Rs. 50/- and when the authority is the Administrator or any other person or body authorized in that behalf by the Administrator, not exceeding Rs. 100/-

- (5) No person shall occupy any site without obtaining a Patta from a competent authority as prescribed in sub-section (1) or sub-section (2) as the case may be.
- (6) The Village Council when the site is allotted under sub-section (1) the Administrator or any other person or body authorized in that behalf by the Administrator when it is allotted under sub-section (2) may evict any person having in occupation of unauthorized site after service on such unauthorized occupant of a notice to vacate the site within a period of not less than 7 days.
- (7) On failure of such unauthorized occupant to vacate the site within the time fixed in the notice the Village Council or Administrator or any other person or body authorized by the Administrator in that behalf, may order for demolition of the building or impose a fine not exceeding Rs. 5/- per day for the unauthorized occupation after the service of the notice.
- (8) The order of the Administrator or a Village Council as the case may be, passed under clauses (6) and (7) above shall be deemed to be a decree of a competent civil court for the purpose of evicting an unauthorized occupant from a site to which this Act applies."

In a nutshell, in a village (Otherwise in notified towns and other urban areas), the village councils have the power to allot only house sites. Whether Hnahlan is notified town or not is beyond submissions in the plaint. More so, some of the claimed damaged properties are agricultural crops and plants where their passes of the plaintiffs did not permit.

As doctrine of estoppels and doctrine of acquiescence barred the suit as already discussed and with vague House Pass (Not agricultural pass), no cogent right to sue is found in the case as defined the terminology of cause of action 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.

### **Issue No. 6**

#### **Whether the suit is barred by law of limitation or not**

No doubt, the law of limitation like in the instant case where the state viz. Union of India etc. are put as parties is applicable in the state of Mizoram as held by the Hon'ble Gauhati High Court in **Lalchawimawia & Ors. Vs. State of Mizoram** decided on 5-5-1999 in connection with WP (C) No. 4 of 1996 reported in 1999 (3) GLR 100 and the later case in **L. Biakchhunga vs State Of Mizoram And Ors.** decided on 1/8/2005 and reported in (2006) 2 GLR 610.

Meanwhile, as submitted by the plaintiffs in their plaint, construction by damaging properties of the plaintiffs were done in 2005, Article 113 of the Limitation Act, 1963 viz. Three years for any suit for which no period of limitation is provided elsewhere in this Schedule to begin time to run when the right to sue accrues is only attracted in the case at hand. Filing of the suit on 27/11/2009 whilst serving legal notice on 12<sup>th</sup> Dec., 2008 will certainly be barred by law of limitation.

By understanding the very purpose and entity of Law of Limitation, reliance may be taken as held in **Vareed Jacob vs Sosamma Geevarghese & Ors** decided on 21 April, 2004 in connection with Appeal (civil) 2634 of 2004 and reported in 2004 AIR 3992, 2004 (1) Suppl. SCR 534, 2004 (6) SCC 378, 2004 (5) SCALE 102, 2004 (2) Suppl. JT 165, the Supreme Court has observed that-

“A suit or a proceeding which is barred by limitation would oust the jurisdiction of the court to entertain the same. When a proceeding is barred by limitation, it culminates in a right to the non-suitor.”

And in **Kamlesh Babu & Ors. Vs. Lajpat Rai Sharma & Ors.** in connection with Appeal (civil) 2815 of 2008 decided on 16/04/2008 reported in 2008 (6) SCR 653, 2008 (6) SCALE 403, 2008 (4) JT 652, the Supreme Court has held that-

“17. It is well settled that Section 3(1) of the Limitation Act casts a duty upon the court to dismiss a suit or an appeal or an application, if made after the prescribed period, although, limitation is not set up as a defence.”

Clearly spelt out in the case of **Mr. Krishna Gopal Kakani Vs. Bank of Baroda** in connection with Civil Appeal No. 8448 of 2001 and reported in 2008 (13) SCALE 160, 2008 (11) JT 62, the Supreme Court observed that-

“12. A reading of this provision reveals that the time of three years would start running from the date when the right to sue accrues.”

Also in **Ramlal and others v. Rewa Coalfields Ltd.** reported in AIR 1962 SC 361, the Supreme Court held as under:

“12. It is, however, necessary to emphasise that even after sufficient cause has been shown a party is not entitled to the condonation of delay in question as a matter of right.”

The observations in **Ram Prakash Gupta Vs. Rajiv Kumar Gupta & Ors** in connection with Appeal (civil) 4626 of 2007 decided on 03/10/2007 reported in 2007 (10) SCR 520, 2007 (10) SCC 59, 2007 (11) SCALE 549, 2007 (11) JT 472 is relevant in this context as unexplained the reasons for delay, the Supreme Court has held that-

“17) For our purpose, clause (d) is relevant. It makes it clear that if the plaint does not contain necessary averments relating to limitation, the same is liable to be rejected. For the said purpose, it is the duty of the person who files such an application to satisfy the Court that the plaint does not disclose how the same is in time. In order to answer the said question, it is incumbent on the part of the Court to verify the entire plaint.

The above factum and legal provisions clearly ousted the jurisdiction of this court to entertain the instant belated suit. The reason is very simple that at this juncture, how can accurate mode of compensation be granted as not permissible to make assessment by employing expert hands as all the alleged properties were already annihilated and could not be seen and traced out after lapse of many years.

In other words, as it is a matter of land acquisition, the plaintiffs were bound to prefer their appeal in time to the authority concerned for claiming their compensation in accordance with law when time and situation permits to make assessment of properties and magnitude of damaged which they totally failed. Thus, this issue is a must decided in favour of the defendants.

#### **Issue No. 7**

**Whether the plaintiffs were already compensated for the claim damages or not**

No further submissions and evidence is adduced during proceedings of the case to adjudicate this issue on merits whilst PWs corroborative denied of receiving compensation on construction of Champhai-Hnahlan-Khuangphah road done by the defendants.

**Issue No. 8**

**Whether the plaintiffs has valid landed documents or not**

Already adjudicated under issue no. 5

**Issue No. 9**

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

Due to barred by law of limitation, without cause of action, bad for non-joinder of necessary parties and is also barred by doctrine of estoppels and acquiescence, no entitlement is appropriate in favour of the plaintiffs.

**ORDER**

UPON hearing of parties and on the basis of the afore findings in various issues, the suit is dismissed due to barred by law of limitation, without cause of action, bad for non-joinder of necessary parties and also due to barred by doctrine of estoppels and acquiescence.

No order as to costs of the suit.

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 31<sup>st</sup> 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/77/2009, Sr. CJ (A)/

Dated Aizawl, the 31<sup>st</sup> Oct., 2012

Copy to:

1. Mr. P. Lawmkima S/o Darkhuma, Hnahlan & Ors. through Mr. B. Lalramenga, Adv.
2. Secretary to the Govt. of India, Ministry of Surface Transport, Transport Bhawan-1, Sansad Marg, New Delhi- 110001 through Mr. S.N. Meitei, Adv.

3. The Secretary, BRDB, Sena Bhawan, New Delhi, 110011 through Mr. S.N. Meitei, Adv.
4. The Chief Engineer, Project Puspak, Zemabawk, C/o 99 APO through Mr. S.N. Meitei, Adv.
5. The Commander, 74 BRTF (GREF), C/o 99 APO through Mr. S.N. Meitei, Adv.
6. The Officer Commanding, 74 RCC (GREF) C/o 99 APO, Zotlang, Champhai- Mizoram through Mr. S.N. Meitei, Adv.
7. P.A to Hon'ble District Judge, Aizawl Judicial District- Aizawl
8. Case record

PESKAR