

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

OTHER SUIT NO. 02 OF 1996

Plaintiff:

Smt. Saikhumi
D/o Tlanglianchhuma
Mission Veng, Aizawl

Represented by:

Smt. Chawngthantluangi
D/o Hnunliana
Mission Veng, Aizawl

By Advocates

: 1. Mr. W. Sam Joseph
2. Mr. Francis Vanlalzuala
3. Mr. F. Lalengliana
4. Mr. Hranghmingthanga Ralte
5. Mr. Bhanu Kwar

Versus

Defendants:

1. The State of Mizoram
Represented by Chief Secretary to the Govt. of Mizoram
2. The Secretary to the Govt. of Mizoram
Public Works Department
3. The Chief Engineer
Public Works Department
Govt. of Mizoram
4. The Executive Engineer
Public Works Department
Kolasib Division
5. The Secretary to the Govt. of Mizoram
Environment and Forests Department
6. The Principal Chief Conservator of Forest
Govt. of Mizoram
7. The Divisional Forest Officer
Kolasib Forest Division, Kolasib

8. Secretary to the Govt. of Mizoram
Land Revenue and Settlement Department
9. The Deputy Commissioner
Aizawl District: Aizawl
10. The Director
Land Revenue and Settlement Department
Govt. of Mizoram

By Advocates:

For the defendants Nos. 1-4 & 8-10: 1. Mr. R. Lalremruata, AGA
2. Miss Bobita Lalhmingmawii, AGA

For the defendant no. 5-7 : Mr. B. Lalramenga

Date of Arguments : 11-09-2012

Date of Judgment & Order : 13-09-2012

BEFORE

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

J U D G M E N T & O R D E R

NUCLEUS OF THE CASE

Being attorney holder, Smt. Chawngthantluangi D/o Hnunliana, Mission Veng, Aizawl represented the case. The plaintiff had purchased a plot of land under P. Patta No. 2047/76 from one Mr. Vanlalliana in 1976 and it was duly mutated in the name of the plaintiff. The said land was also partially developed by the previous owner, since the winter of 1976, the plaintiff started to develop the suit land by planting mustard leaves and about 50,000/- of orange seedlings, fish pond was also constructed utilized for irrigation. During winter 1989, the PWD personnel started construction of motorable road in the suit land without the permission of the plaintiff which devastated their plantations and causing loss of earnings. The Forest Department also removed all the sand sand (Balu) available in the suit land and sold it through Mahaldar without any rights to extract the same. P. Patta No. 2047/76 was later converted into Agricultural LSC No. 101707/09/11 of 2000. The plaintiff calculated amount of compensation as follows-

Claimed from the Public Works Department:

1. On account of the money spent for
development of the land = Rs. 3,00,000/-
2. Destruction of the Orange

Seedlings	= Rs. 5,00,000/-
3. Destruction of the fish pond	= Rs. 25,000/-
Total	= Rs. 8,25,000/-

Claimed from the Forest Department:

Loss of income from cultivation	
@ Rs. 50,000/- per year	= Rs. 3,00,000/-
Cost of the sand removed from the plaintiffs land	
from winter 1989 till date	= Rs. 10,00,000/-
Damage for making the land infertile	= Rs. 2,20,000/-
Total	= Rs. 15,00,000/-

The plaintiff therefore prayed a decree (i) declaring that the defendants 2 to 4 have illegally constructed motorable road within the plaintiff's land without the consent of the plaintiff, thereby damaged the crops and pond liable to pay a compensation amounting to Rs. 8,25,000/- (Rupees eight lakhs, twenty five thousand), the defendants be directed to pay the same to the plaintiff (ii) declaring that the defendants 5 to 7 have been taking sand from the land of the plaintiff illegally without the consent of the plaintiff and thereby liable to pay compensation amounting to Rs. 15,00,000/- (Rupees fifteen lakhs) (iii) interest @ 18 % per annum over the said sum with effect from 1990 be decreed in favour of the plaintiff (iv) by way of permanent mandatory injunction restraining defendants from using the portion of the road running across the suit land and from removing sand or to store the sand within the suit land (v) directing the defendants 2 to 7 to give vacant possession of the land. In the event of acquiring the said land by the defendants, the defendants be directed to pay adequate compensation in terms of the Land Acquisition Act (vi) cost of the suit and pendent lite interest @ 18% per annum in favour of the plaintiff and (vii) any other relief which this court deems fit and proper.

The defendants in their joint written statements contended that the relief claimed by the plaintiff is different from her notice u/s 80 of the CPC, the plaintiff being the holder of P. Patta could not claim ownership as per rule 2 (8) of the Mizo District (Agricultural Land) Rules, 1971, the claimed landed area of the plaintiff is within the notified Inner Line Reserve Forest area which was notified in the Assam Gazette Dt. 19th Oct., 1978. The disputed plot of land claimed by the plaintiff is not covered by her P. Patta. The suit is therefore liable to reject. The approach road to Saihapui river was constructed during 1985-1986, during survey of the same, it was found that the land was not developed for cultivation of rice nor was there any complaint from any quarter during and after the survey. As the said road was constructed during 1985-1986, planting of mustard and about 50,000 orange seedlings in 1989 and construction of fish pond cannot be believed to be true. If the plaintiff cultivated the said plants/crops and constructing fish pond, it is arbitrary as against his P. Patta. Government approval for the said road was obtained under Memo No. B. 12020/31/84/PWC, Dt. 18/11/1985. At that time, the disputed land was undeveloped. The

defendants 5-7 have extracted sand from the mid river beds of Saihapui river and Tuichhuahen river and not from the land of the plaintiff. As per clause 3 of the terms and conditions imposed upon the plaintiff in her P. Patta, she has no right to obstruct the reservation of stone quarry etc by the government. As per the verification report dt. 20/11/1990 submitted by Mr. C. Sangkunga, Surveyor-III, the defendants 5 to 7 did not extract sand from the land of the plaintiff. The plaintiff has no right to claim compensation as she possessed only P. Patta. Thus, prayed to dismiss the suit with exemplary costs.

ISSUES

Issues were therefore framed on 29/8/1999 and amended towards correct findings namely-

1. Whether the suit is maintainable in its present form and style or not
2. Whether the plaintiff has *locus standi* and cause of action to file the instant suit against the defendants or not.
3. Whether the road construction was within the area covered by P. Patta No. 2047/76 of the plaintiff. If so, whether the plaintiff has right to claim compensation as prayed in the plaint.
4. Whether the defendants 5-7 had extracted sand from the area covered by P. Patta No. 2047/76 belonging to the plaintiff. If so, whether the defendants 5-7 are liable to pay compensation as prayed for.
5. Whether the conversion of P. Patta No. 2047/76 into Agricultural LSC No. 101707/09/11 of 2000 invested the plaintiff heritable and transferable right to the plaintiff or not.
6. Whether the plaintiff is entitled to the relief claimed or not. If so to what extend

BRIEF ACCOUNT OF EVIDENCE

For the plaintiff:

The plaintiff had produced the following witnesses namely-

1. Smt. Chawngthantluangi D/o Hnunliana, Mission Veng, Aizawl (Hereinafter referred to as PW-1)
2. Mr. C. Sangkunga S/o C. Rangkunga (L), Zonuam, Aizawl (Hereinafter referred to as PW-2)
3. Mr. Chawngthansanga S/o Hnunliana, Mission Veng, Aizawl (Hereinafter referred to as PW-3)

The **PW -1** in his examination in chief deposed that the plaintiff is her mother and she mainly affirmed the averments and submissions in the plaint being the representative of the plaintiff. She further exhibited the following documents namely-

Ext. P- is a copy of P. Patta No. 2047/76

Ext. P-2 is order issued by Director, Revenue Department

Ext. P-3 is letter Dt. 20/11/1990 issued by Mr. C. Sangkunga Surveyor to the Director, Revenue Department

Ext. P-4 is a letter Dt. 20th Aug., 1991 issued by ASO-II to the plaintiff

Ext. P-5 is Tax clearance certificate

Ext. P-6 is a letter sent by Mr. Chawngthansanga to the Deputy Commissioner, Aizawl

Ext. P-7 is a letter sent by DC, Aizawl to SDO (C) Kolasib

Ext. P-8 is letter issued by SDO (C), Kolasib to DC, Aizawl

Ext. P-9 is Notice u/s 80 CPC

Ext. P-10 is acknowledgement of EE, PWD, Kolasib

Ext. P-11 is acknowledgement of DFO, Kolasib

Ext. P-12 and 13 are registered receipt

Ext. P-14 is House tax payee certificate

Ext. P-15 is a copy of Agricultural LSC No. 101707/09/11 of 2000

In her cross examination, she admitted that she did not know the exact time for construction of the road passing through the suit land. She cannot remember the exact number of orange trees destroyed in the suit land. The plaintiff did not file any complaint on extraction of sand from the suit land to the forest department. At the time of spot verification conducted by Mr. C. Sangkunga, Surveyor-III, her younger brother Mr. Chawngthansanga was present on the spot.

The **PW-2** in his examination in chief deposed that he is the surveyor in the Directorate of Land Revenue and Settlement Department. As detailed by the Revenue Department, they conducted spot verification of the suit land on 9.11.1990, the DFO, Kolasib, ASO-II, Kolasib and representative of PWD were also present on the spot. He found plenty of mustard, orange nursery bed containing around 50,000 orange seedlings. The water channel meant for supply of water for the fish pond was completely destroyed by the PWD while constructing the road. The PWD also constructed the road through the paddy field without permission of the plaintiff. The forest department also used paddy field for stocking sand excavated from the land of the plaintiff. He thereby submitted his verification report on 20-11-1990 to the Director, Land Revenue and Settlement Department.

In his cross examination, he admitted that he did not know the year when the road construction was made by the PWD. At the time of his spot verification, there was no fruit trees, vegetables and other fruit seedlings as road construction was already done and destroyed the same.

The **PW-3** in his examination in chief deposed that the plaintiff is his mother, being the son of the plaintiff he looked after the suit land as soon as obtained by the plaintiff. With the help of local labours, they cultivated rice and other fruit bearing trees in the suit land. During their short time absence from the suit land as his father was transfer to Kolasib. Without their consent and permission, the PWD had constructed road within the suit land by threatening their labour. The Forest Department also extracted sand from their suit land without their permission. On the basis their complaint, the Revenue Department detailed Mr. C. Sangkunga to conduct spot verification and done accordingly.

In his cross examination, he deposed that he did not know about the value of transactions of purchase of the P. Patta of the plaintiff. Although he did not actually stay at Saihapui (K), he used to look after the suit land. He admitted that the plaintiff based her claim on the report submitted by Mr. C. Sangkunga, Surveyor. He cannot calculate the exact number of damaged orange seedlings.

For the defendants:

The defendants had produced the following witnesses namely-

1. Mr. Lalthanglura Sailo, SDO, PWD, Kolasib Division (Hereinafter referred to as DW-1)
2. Mr. R.L. Rindika, Superintendent, Land Revenue and Settlement Department (Hereinafter referred to as DW-2)

The **DW-1** in his examination in chief deposed that during the financial year of 1985-1986, the approach road to Saihapui river was constructed and never re-construct again. Before and during construction of the said road, none availed to make a complaint on it. It is beyond their knowledge about the ownership of the claimed land of the plaintiff as no marking was available and all were undeveloped and occupied by natural shrubs. Crops/fruit bearing trees and fish pond were totally not available. The report of SDO (C), Kolasib Dt. 27/1/1993 also clearly revealed that there was no fish pond and crops on the disputed area. The local peoples claimed the suit land as owned by Mr. D. Hnunliana. He is the initiator for construction of the said PWD road when he was J.E., his deposition is also based on his own personal visits and physical experience. He further exhibited that-

Ext. D-1 is their written statement

Ext. D-1 (a) is the signature of the then Under Secretary

In his cross examination, he stated that he is posted as SDO, PWD, Kolasib joined PWD in 1978 as J.E. He was in charge of road construction at Saihapui during 1985-1986. He also admitted that he knew that the road which they constructed for approaching Saihapui river in 1985-86 was belonging to the plaintiff since the day when cross examined.

The **DW-2** in his examination in chief deposed that claiming planting mustard leaves in 1989 and 50,000 of orange seedlings cannot be proved at this belated stage as well as the construction of fish pond is out of trace and proof. The said construction of Kolasib-Buhchangphai via Saihapui road was started in 1986 not in 1989. If the labourers engaged by the plaintiff during 1989 were threatened by PWD personnel, the case should have been referred to Police authorities but this was not done till date. The extent of damages suffered by the plaintiff as alleged in the plaint is beyond proof. The report submitted by Mr. C. Sangkunga Surveyor-II Dt. 20/11/1990, 13/10/1998 and 9.9.2002 contradict to each other. Thus, his report Dt. 20/11/1990 is also doubtful.

In his cross examination, he deposed that he have not visited the disputed land. Whatever he stated in his examination in chief was on their basis of the written statements. Whatever he stated in his examination in chief were not from his personal knowledge. He admitted as a fact that being the holder of LSC, now the plaintiff has heritable and transferrable right.

FINDINGS

Issue No. 1

Whether the suit is maintainable in its present form and style or not

The Court Fees (Mizoram Amendment) Act, 1996 (Act No. 5 of 1997) is made effective from 1997 after institution of the suit, the plaint is merely accompanied by simply verification without affidavit. In this lacunae, the provisions of sub- rule (4) of rule 15 under Order VI of the CPC was made effective after institution of the instant suit viz. with effect from 1-7-2002 by Act No. 46 of 1999 which is after filing of the instant suit. This issue is therefore decided in favour of the plaintiff.

Issue No. 2

Whether the plaintiff has *locus standi* and cause of action to file the instant suit against the defendants or not.

Undisputedly, being the holder of P. Patta and later converted in LSC and thereby constructed the motorable road by the PWD, Govt. of Mizoram disturbing peaceful possession before intimation to the holder of the said P. Patta, the plaintiff must have cause of action but subject to findings in other issues in terms of the observations reached in **S.P. Gupta Vs. President Of India And Ors.** decided on 30/12/1981 reported in AIR 1982 SC 149, (1981) Supp (1) SCC 87, (1982) 2 SCR 365 and 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. This issue is also therefore decided in favour of the plaintiff.

Issue No. 3

Whether the road construction was within the area covered by P. Patta No. 2047/76 of the plaintiff. If so, whether the plaintiff has right to claim compensation as prayed in the plaint.

The area covered by P. Patta No. 2047/76 is 12 bighas as elicited by Ext. P-1, the area covered by Agricultural LSC No. 101707/09/11 of 2000 marked as Ext. P-15 is also 11.31 bighas. During cross examination of the DW-1 who initiated and supervised the instant road construction admitted that when he was posed for cross examination, he knew that the suit land where construction of the disputed road is within the area claimed by the plaintiff. At the time of road construction at Saihapui during 1985-1986, the plaintiff held P. Patta No. 2047/76. Embarrassingly, the Revenue

Department during the matter is pending in this court and the matter falls sub-judice converted the said P. Patta No. 2047/76 into Agricultural LSC No. 101707/09/11 of 2000 marked as Ext. P-15. So is the intention of the Government of Mizoram in favour of the plaintiff where the state of Mizoram is arrayed as defendant no. 1. The undisputed exhibited P-8 which is a report submitted to the Deputy Commissioner, Aizawl by the then SDO (C), Kolasib Dt. 27th Jan., 1993 also clearly indicated that the PWD, Govt. of Mizoram has constructed motorable road within P. Patta No. 2047/76 and maintained till date as found in their joint verification report held on 26th Nov., 1992. Meanwhile, there is no such plant e.g. orange and fish pond to be seen during the course of verification.

The DW-1 deposed during examination in chief that they were not clear about the ownership of the suit land during their road construction during 1985-1986 which shows that without giving ample time/opportunity to the plaintiff for collection of her crops and planted fruit bearing trees, they intruded in the suit land in violation of the terms and conditions imposed in the back side of the P. Patta No. 2047/76 which says that-

“The Periodic Patta may be cancelled without compensation at any time even before the expiry of the period of allotment, if the same is required for the public purposes, but, after sufficient time shall be given to the holder for collection of the Agricultural products in it.”

However, as per rule 18 of the Mizo District (Agricultural Land) Rules, 1971, it specifically reads thus-

“18. Periodic Patta for Fishery

Subject to the relevant provisions in the Lushai Hills Fisheries Act, 1953, any collection of water running or stagnant, within the Agricultural land to which the Principal Act applies, may be allotted by the Executive Member or Officer as Fishery under Periodic Patta. In such allotment the preceding relevant Rules for granting Periodic Patta shall be followed.”

Forms for Periodic Patta for fishery is also distinguish as Appendix-D whilst Periodic Patta for other agricultural purpose is set forth as Appendix-B. Thus, the plaintiff may not have right to claim compensation on fish pond as it is contradiction of the conditions for issuance of her P. Patta.

Law discussed above clearly indicated that if the land under P. Patta is required for public purpose, it should be cancelled after giving sufficient time to the holder for collection of his/her agricultural products. In the case at hand, without giving ample time for collection of agricultural products and without giving intimation/notice to the plaintiff and without cancellation of her P. Patta, the PWD intruded for road construction in the land of the plaintiff covered by her P. Patta No. 2047/76.

The plaintiff must therefore have entitled compensation which will be more accurately discussed in the last issue.

Issue No. 4

Whether the defendants 5-7 had extracted sand from the area covered by P. Patta No. 2047/76 belonging to the plaintiff. If so, whether the defendants 5-7 are liable to pay compensation as prayed for.

Although the plaintiff claimed that the defendants 5-7 had extracted sand from the area covered by P. Patta No. 2047/76 belonging to the plaintiff and also stocked some sand in the suit land which infertile the suit land as well as effect the plantation of the plaintiff, the plaintiff failed to proof the period for using the suit land for stocks of the sand by the said defendants and also failed to adduce suffice evidence to reveal that the defendants 5-7 had extracted sand from the area covered by P. Patta No. 2047/76. More so, to proof the consequence of infertile of the suit land due to stock of sand is also requires to scientific method of proof which the plaintiff failed to do so.

Meanwhile, although the defendants contended that as stone quarry etc. the government is permissible to intrude over to the area cover by the P. Patta as prescribed by the conditions in the back side of the P. Patta of the plaintiff, whether it is justifiable in their act or not can be examined that, the said condition is quoted as-

“The holder of this Periodic Patta has not right to obstruct the reservation of stone quarry etc, made by the Government within the land allotted to him and the liberty it has to search for and work the same as provided under section 7 (b) of the Principal Act, as amended.”

Meanwhile, section 7 (b) of the principal Act says that-

“7. Rights over Land:-

- (1) The Patta-holder shall have heritable and transferrable right of use on, or of sub-letting in his land subject to:-
 - (a) The payment of all revenues and taxes from time to time, legally assessed or imposed in respect of the land
 - (b) Such terms and conditions as are imposed by rules made under this Act.
- (2) No person shall acquire by length of possession or otherwise any right over land disposed of, allotted or occupied, unless registered and Patta obtained in accordance with provisions of this Act.”

It denotes that as may be prescribed by the Mizo District (Agricultural Land) Rules, 1971, the Government can make reservation for stone quarry etc over to the area covered by the P. Patta., on meticulously examining the provisions of the said Mizo District (Agricultural Land) Rules, 1971, there is no such reservation provision in favour of the government for stone quarry etc. This ground alone is not tenable in law.

Howsoever, as extraction of sand is governed by the Mines and Minerals (Development and Regulation) Act, 1957 and the Rules made thereunder and whilst the subject matter of extraction of sand in the state of Mizoram is undisputedly transferred to the newly created Geology and Mineral Resources Department and whilst the said Geology and Mineral Resources Department is not arrayed as parties in the lis, no entitlement in favour of the plaintiff could not be directed.

Issue No. 5

Whether the conversion of P. Patta No. 2047/76 into Agricultural LSC No. 101707/09/11 of 2000 invested the plaintiff heritable and transferable right to the plaintiff or not.

As admitted by the DW-1 who is from the Revenue Department, issuance of Agricultural LSC No. 101707/09/11 of 2000 invested the plaintiff heritable and transferable right to the plaintiff as imposed by the provision of the Mizo District (Agricultural Land) Act, 1963 and the Mizo District (Agricultural Land) Rules, 1971. No need of further elaborations as the said Agricultural LSC No. 101707/09/11 of 2000 is within the rigour and entity of the said Mizo District (Agricultural Land) Act, 1963 and the Mizo District (Agricultural Land) Rules, 1971.

Pertinently, although the ASO-II, Kolasib rejected application for conversion of the same Dt. 20/8/1991 as elicited by Ext. P-4 on account of objection raised by the Forest Department. Later conversion into LSC by the Revenue Department in 2000 begets rights over to the suit land to the plaintiff.

Issue No. 6

Whether the plaintiff is entitled to the relief claimed or not. If so to what extend

As already discussed under issue no. 4 that the liabilities of the Environment and Forest Department, Govt. of Mizoram is exonerated.

In the meantime, as deposed by PW-3 who is the son of the plaintiff and who look after the suit land for agricultural purpose that the claim amount of the plaintiff is mainly based on the survey conducted by Mr. C. Sangkunga, Surveyor who posed as PW-2. In the examination of the PW-2, he stated that he found so many plants/crops as submitted in the plaint. But in his cross examination, he admitted that he did not find any crops and plants submitted in the plaint as already destroyed by the road construction. His variant depositions subjugated the credibility of Ext. P-3 to act upon on assessing damages in respect of huge quantum of orange seedlings and mustard leaves planted in the suit land. Even for strenuous effort on it, whilst the road was constructed during 1985-1986 and after lapse of more than 26 years, how to direct accurate assessment on such alleged damaged crops to the Revenue Department is a big question.

Besides already discussed negatively in respect of fish pond, Ext. P-1 viz. P. Patta No. 2047/76 is purely issued for Wet Rice Cultivation, if so,

allegation to destroy fish pond is not believable whilst separate form of P. Patta for fishery will be issued in accordance with rule 18 of the Mizo District (Agricultural Land) Rules, 1971 as Appendix-D in the said Rules.

After narrowing down of other crux, the remaining issue is that whilst proving that the PWD had constructed their motorable road within the P. Patta No. 2047/76 belonging to the plaintiff, whether the PWD is liable to pay compensation to the plaintiff on the basis of the valuation of the suit land or not.

As already discussed, the PWD without giving intimation to the plaintiff and without giving sufficient time to collect the crops therein to the plaintiff and without cancellation of P. Patta No. 2047/76 constructed the disputed motorable road in the suit land. Although the matter is sub judice, the Revenue Department issued valid Agricultural LSC No. 101707/09/11 of 2000 to the plaintiff which covers the area previously covered by the said P. Patta No. 2047/76 as discussed under issue no. 3 and as revealed by Ext. P-15. Without acquiring the land of the plaintiff, when the defendants already failed to cancel P. Patta No. 2047/76 for public purpose and now having right of title and ownership by the plaintiff as per her LSC, the public interest will suffer by closing the public motorable road at Saihapui.

Thus, the defendants 1-4 are liable to acquire the land of the plaintiff covered by the previous P. Patta No. 2047/76 now Agricultural LSC No. 101707/09/11 of 2000 by giving adequate compensation in terms of the procedure and quantum embodied under the Land Acquisition Act, 1894 and by calculating rate of interest with effect from the date of starting construction of the said road if they calculated quantum of compensation in the in force notified rates at the time of construction of the road.

By virtue of the Notification No. K. 15013/69/99- REV the 12th June, 2012 p. 7 Part-I of the Mizoram Gazette, Vo. XLI, Dt. 15/6/2012, Issue No. 24, the Revenue Department as defendants 8 and 10 will liable to make assessment of the land value in respect of only the portion of land occupied by the disputed motorable road with road reserve area for further submission to the government in accordance with the Land Acquisition Act, 1894 and the Rules made thereunder.

The very doctrine of eminent domain discussed in the case of **Anand Singh & Anr. vs State Of U.P. & Ors.** decided on 28 July, 2010 in connection with Civil Appeal No. 2523 of 2008 is relevant in the case at hand, the Supreme Court has held that-

“30. The power of eminent domain, being inherent in the government, is exercisable in the public interest, general welfare and for public purpose. Acquisition of private property by the State in the public interest or for public purpose is nothing but an enforcement of the right of eminent domain. In India, the Act provides directly for acquisition of particular property for public purpose. Though right to property is no longer fundamental right but Article 300A of the Constitution mandates that no

person shall be deprived of his property save by authority of law.”

To epitomize, the defendants are liable to acquire the portion of land occupied by the disputed road construction as cogently meant public purpose in accordance with the Land Acquisition Act, 1894 and the Rules made thereunder.

ORDER

In view of the afore findings and elaborations, the defendants 1-4 are directed to acquire the land of the plaintiff covered by the previous P. Patta No. 2047/76 now Agricultural LSC No. 101707/09/11 of 2000 by giving adequate compensation in terms of the procedure and quantum embodied under the Land Acquisition Act, 1894 and by calculating rate of interest with effect from the date of starting construction of the said motorable road at Saihapui if they calculated quantum of compensation in the in force notified rates at the time of construction of the road.

By virtue of their Notification No. K. 15013/69/99- REV the 12th June, 2012 p. 7 Part-I of the Mizoram Gazette, Vo. XLI, Dt. 15/6/2012, Issue No. 24, the Revenue Department as defendants 8 and 10 is directed to make assessment of the land value in respect of only the portion of land occupied by the disputed motorable road with road reserve area (The area which they require within the suit land) for further submission to the Government in accordance with the Land Acquisition Act, 1894 and the Rules made thereunder.

All the process of acquisition till payment of whole compensation will be completed within ninety days from the date of this order. No order as to costs of the suit.

With this order, the case shall stand disposed of.

Give this order copy to all concerned.

Given under my hand and seal of this court on this 13th September, 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. OS/02/1996, Sr. CJ (A)/

Dated Aizawl, the 13th Sept., 2012

Copy to:

1. Smt. Chawngthantluangi D/o Hnunliana, Mission Veng, Aizawl through Mr. W. Sam Joseph, Adv.
2. The State of Mizoram Represented by Chief Secretary to the Govt. of Mizoram through Mr. R. Lalremruata, AGA
3. The Secretary to the Govt. of Mizoram, Public Works Department through Mr. R. Lalremruata, AGA
4. The Chief Engineer, Public Works Department- Govt. of Mizoram through Mr. R. Lalremruata, AGA
5. The Executive Engineer, Public Works Department, Kolasib Division through Mr. R. Lalremruata, AGA
6. The Secretary to the Govt. of Mizoram, Environment and Forests Department through Mr. B. Lalramenga, Adv.
7. The Principal Chief Conservator of Forest, Govt. of Mizoram through Mr. B. Lalramenga, Adv.
8. The Divisional Forest Officer, Kolasib Forest Division, Kolasib through Mr. B. Lalramenga, Adv.
9. Secretary to the Govt. of Mizoram, Land Revenue and Settlement Department through Mr. R. Lalremruata, AGA
10. The Deputy Commissioner, Aizawl District: Aizawl through Mr. R. Lalremruata, AGA
11. The Director, Land Revenue and Settlement Department- Govt. of Mizoram through Mr. R. Lalremruata, AGA
12. P.A. to Hon'ble District & Sessions Judge, Aizawl Judicial District- Aizawl
13. Case record

PESKAR