

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

**Review Application No. 16 of 2008
A/o Heirship Certificate Case No. 260 of 2005**

Sh. C.Lalhriatrenga
R/o Durtlang Leitan, Aizawl. Review Petitioner

Versus

1. Smt. P.C. Lalthazovi
M/o C.Lalhriatrenga
R/o Durtlang Leitan, Aizawl.

2. Sh. F.Lalbuanga
R/o Dulte
C/o F.Vanlalruata
R/o Ramhlun South, Aizawl. Opposite Parties

Present

Mr. T. Lalhmachhuana, Civil Judge-1

Counsel for the Petitioner : Sh. L.H. Lianhrima, Sr. Advocate & Ors.
Counsel for the O.P. : Sh. W.Sam Joseph, Advocate & Ors.
Date of hearing : 15.11.2017
Date of Judgment & Order : 11.12.2017

JUDGMENT AND ORDER

Dated Aizawl, the 11th December, 2017

(This instant review case is filed by C.Lalhriatrenga for review of Heirship Certificate No. 260 of 2005 issued by the then Sub-District Council Court, Aizawl in favour of his mother P.C. Lalthazovi herein Opposite Party No.1 in respect of LSC No. AZL-1678 of 1994 which belongs to his deceased father Lalchhuanawma (L) in which my Id. Predecessor dismissed his case and the petitioner prefer an appeal before the Hon'ble Gauhati High Court wherein the Hon'ble Gauhati High Court passed an order to reconsider and disposed of the case on merit).

1. Facts of the case in brief is that the present review petitioner filed this petition on 17.10.2008 submitting that his father Lalchhuanawma expired

on 12.01.1997 and is residing thereafter with his mother (the O.P. No.1). That he has recently become a major and is the rightful heir to his father's property. However, his mother (the O.P. No.1) was issued Heirship Certificate No.260 of 2005 in respect of his deceased father's LSC No. AZL-1678 of 1994 without his (Review petitioner's) knowledge and consent. That the O.P. No.1 mortgaged the said LSC, and has now received a notice from Shri F.Lalramngheta S/o the O.P. No.2, to vacate the landed area covered by the said LSC before expiry of 18.10.2008. Hence the instant review petition is filed for review of the said H.C. No. 260 of 2005 and to pass an interim order to prevent eviction of the review petitioner from the land covered by the said LSC (copy of H.C. No.260 of 2005, LSC & Notice dated 2.10.08 are annexed as Annexure I, II & III).

2. Operation of the said H.C. was thereby stayed by the Court on the same day the instant suit was filed i.e. on 17.10.08. Summons was issued to the O.P. No.1, but summons return was received with a certification by the Chairman of Durtlang Local Council, Aizawl that said O.P.-1 used to reside at Durtlang Leitan but she had left Durtlang Leitan since 2008 and her whereabouts unknown ever since.
3. Thereafter, Shri F.Lalbuanga filed an application u/s 151 C.P.C. incorporating an objection-cum-counter claim on 26.11.08 for invoking the inherent power of the Court to make such orders as may be necessary for the ends of Justice and to prevent abuse of the process of the Court. Shri F.Lalbuanga submits inter alia that the application for issue of the impugned H.C. clearly mentions that O.P-1 had submitted recommendation from the Village Council and No Objection letters from the brothers of the deceased Lalchhuanawma and had also produced the petitioner and his brother to the Court on the same day to prove that the petitioner and his brother also have no objection for issuance of the impugned H.C. That, only after being satisfied that the petitioner and his brother and all the paternal uncles of the petitioner had no objection in issuing the H.C. in favour of the O.P.-1, the Court was pleased to issue impugned H.C. vide Memo No. SDCC/HC-260/05/1641-3: dated Aizawl, the 2nd Aug. 2005. That, the said LSC was mortgaged by the O.P.-1 to one Shri F.Aikhuma of Chhinga Veng, Aizawl on 1.8.2005 by borrowing a sum of Rs. 5,00,000/-

(Rupees five lakhs only) with the condition that if she was unable to repay the said sum of money with interest within two months, the said Shri F.Aikhuma will become the owner of the said property and she would vacate from the said land and in the event of her unable to get another place for her stay she would pay rent to Shri F.Aikhuma . On the same day, the original LSC with all connected documents were handed over to the mortgagee. The O.P-1 also told the mortgagee that she had applied for Heirship Certificate in respect of the said LSC on the same day and may be issued on 2nd August, 2005. The O.P-1 was issued the impugned H.C. on 2.8.2005 and on the same day, true to her word she handed over the mortgagee a copy of the said H.C. that, as the O.P.-1 could not repay the borrowed amount availed by her from the mortgagee, the mortgagee became the owner of the said plot of land w.e.f. 1st of October, 2005 and the petitioner's requested the mortgagee Shri F.Aikhuma to allow her and her family members to stay in the building located within the said plot of land covered by the said LSC and agreed to pay Rs. 2000/- per month as rent w.e.f. 1st October, 2005. Thereafter, after going through copy of the impugned H.C. and other relevant documents and being convinced that the documents were proper, Shri F.Lalbuanga bought the said property from the mortgagee Shri F.Aikhuma and immediately took possession of all the documents thereof. And from the month of November, 2005, the petitioner's mother started paying rent at the rate of Rs. 2000/- per month to Shri F.Lalbuanga. That, on September 2008, Shri F.Lalbuanga requested the petitioner's mother to vacate from the said building covered under the said LSC, but instead of vacating, the petitioner's mother through the petitioner had filed a petition for review of the impugned H.C. That the petitioner or his brother thereby has no locus standing to file the review application. Further, the averment of the review petitioner that the impugned H.C. was obtained by his mother without his knowledge and consent is completely false and mischievous. And from plain reading of the application submitted by the petitioner's mother when she obtained the impugned H.C. it is evident that the petitioner and his brother and his paternal uncles were aware of the issuance of the said H.C. and that the said H.C. was issued at the instance of the petitioner and his brother,

hence the doctrine of estoppel by acquiescence come into play. That the contention in the review petition is completely false and the petitioner is liable for criminal prosecution for misguiding the Court. That, the review petitioner has filed this review petition in collusion with his mother (O.P-1), knowing fully well that the review petitioner has no locus standi to file this review petition as he was present before the Court when his mother submitted application for obtaining the impugned H.C. And that, the review petition has been filed after a lapse of more than two years, hence the same is to be dismissed with cost. ShriF.Lalbuanga thereby prayed for dismissal of this review petition with cost. (copy of the LSC, application for H.C. by the O.P-1, N.O.C, H.C., mortgage deed, sale letter, counter foils of rent receipts are Annexures A to H).

4. ShriF.Lalbuanga was for a considerable period of time not impleaded as a party even after he filed the said application. But based on his application and counter claim the review petitioner was continuously required to file written objection thereto. Therefore, on 25.3.2011 on finding that ShriF.Lalbuanga was one of the necessary party to the present suit, the Court eventually added him as O.P-2 in this case.
5. Thereafter, the review petitioner also filed written objection to the counter claim of the O.P-2 and 21.4.2011 submitting inter alia that there is absolutely no cause of action on favour of the O.P.-2 against the review petitioner. That, the O.P.-2 had no locus standi to file the instant counter claim as the same was filed even before application was filed for impleadment as a party. That the O.P-2 had no right to invoke inherent power of the Court as the same is against the legislative intent of the relevant provision. That, the review petitioner was a minor at the time his mother brought and produced him before the Court at the relevant time of incident and the review petitioner could not give any consent or objection when his mother applied and illegally obtained the impugned H.C. That, the O.P-1 does not have any legal or moral right to apply and obtain H.C. in respect of the said LSC in this connection and that too before her youngest son attains majority. That, his mother does not have any legal or moral right to mortgage the LSC to anyone before the review petitioner attains majority on the ground that the land and building covered by the LSC

solely and legally belonged to him as per Mizo customary law and social practices. That, the mother is the natural guardian of the review petitioner and the natural guardian is legally expected to protect the interest the interest of her ward and she had absolutely no right to dispose of the immovable property covered by the said LSC belonging to the review petitioner. As such, the act of the O.P.-1 in mortgaging the said landed property on the strength of the impugned H.C. is null and void. That, Shri F.Aikhuma does not have a right to sell the immovable property covered by the LSC on the ground that he is not the legal or lawful owner of the disputed land. Hence, Shri F.Aikhuma cannot confer any title he does not have to the O.P.-2 by way of sale. That, the review petitioner on attaining the age of majority has every right to claim the immovable property covered by the said LSC by filing review petition against the impugned H.C. That, the N.O.C. duly issued by the brothers and sisters of the deceased for issuance of H.C. does not have any relevancy because it is against the interest of the minor children of the deceased. That, the wife of the deceased is not entitled to inherit the property of her husband as per Mizo Customary Law and social practices. However, she is entitled to look after her children and live in the house of the husband provided that she remains chaste as a natural guardian to her children. This reveals that the O.P-1 had illegally taken undue advantage of the situation by obtaining H.C. in respect of the said LSC before the review petitioner attains the age of consent and majority. Hence, the impugned H.C. is liable to be reviewed under the facts and circumstances of the case. The review petitioner thereby prayed for dismissal of the counter claim of the O.P-2 with exemplary cost.

6. Considering the pleadings and arguments of the parties, the following issues were framed and amended from time to time under the provision of Order XIV, Rule 5 of the Code of Civil Procedure, 1908 –

1) Whether this instant Review petition is maintainable in its present form and style?

2) Whether the review petitioner has cause of action/locus standi to file the instant review petition?

- 3) Whether the Heirship Certificate No. 260 of 2005 is liable to be reviewed as prayed for?**
- 4) Whether counter claimant has a right to file counter claim against the review petitioner?**
- 5) Whether there is collusion between the review petitioner and his mother?**
- 6) Whether the review petitioner is entitled to the relief claimed, if so, to what extent?**

Findings and reasons thereof

7. **Issue No.1: Whether this instant Review petition is maintainable in its present form and style?** The Review petitioner filed this instant review petition challenging Heirship Certificate No.260/2005 issued in favour of his mother by the erstwhile SDCC in respect of LSC No. AZL-1678 of 1994 and paid advalorem Court fees amounting to Rs. 15/- and it was admitted on 17.10.2008 and no irregularities have been found.
8. **Issue No. 2: Whether the review petitioner has cause of action/locus standi to file the instant review petition?** The review petitioner's case is that he is the legal heir of the deceased Lalchhuanawma of Durtlang Leitan who passed away on 12.1.1997 with respect to the landed property covered by LSC No. No. AZL-1678 of 1994 as he is the youngest son of his late father, while her mother P.C. Lalthazovi had illegally obtained Heirship Certificate No. 260 of 2005 in respect of the said LSC without his knowledge and consent. Further, his mother had mortgage the said LSC by taking loan from one F.Aikhuma who had further sold the same to F.Lalbuanga and the said Lalbuanga has threatened to evict them from the land. Hence, filed a review petition to set aside the H.C. No. 260 of 2005 issued in favour of his mother P.C. Lalthazovi. In order to establish his case the petitioner exhibited his review petition as Ext.P-1, his signature on it as Ext.P-1(A), H.C. No. 260 of 2005 as Ext.P-2, copy of LSC No. AZL-1678 of 1994 as Ext.P-3.
9. In his cross examination as PW-1 the petitioner stated that he was born on 29.3.1990 at Durtlang Hospital, his father was death on 12.1.1997 and he was living with his two other brothers and his mother who was not married

to any other man. He further stated that his mother had mortgaged the LSC No. AZL-1678 of 1994 to F.Aikhuma in consideration for a loan. Thereafter, the said LSC was purchased by F. Lalbuanga from F.Aikhuma and thereafter, his mother paid a rent @ Rs. 2000/- to Lalbuanga till 1.8.2008.

10. While considering the present issue, this Court carefully perused available materials on record and also going through the relevant sections under the **Mizo Customary Law as published in the Mizoram Gazette Extra Ordinary No. Vol. XXXIV Aizawl Wednesday 6.4.2005 Chaitra 16, S.E. 1927. Issue No.66 wherein Chapter 12 deals with inheritance of father's (Head of family) property which runs thus –**

Chang 176 Ro : *Ro chu in leh lo te, sum leh pai te hi a ni.*

Chang 177(3) Chhungkawroawmthei dang: *Ro neitu nupuiin emaw, a tu leh fate leh a mote emaw, pa ina awmkhawm chhunga anmahni hminga ram leh thil dang chi hrang hrang an neihte pawh ro a ni vek a. Amaherawhchu, chang 50 leh 51-a a sawi hi chu hmeichhe ro bik a ni.*

Chang 178 Ro Neitu: *Mizo hi pate lam atanga thlah kal zel leh ro inluah chhawngzel kan ni a, chuvangin chhungkaw pa ber chu roneitu a ni. Chang 177(3)-a ropawh hi chang 50 leh 51-a a sawi, hmeichhe bungrua leh thuam tih loh chu, pa in a awmkhawm chhung chuan, pa rovek a ni. Chhungkaw pa ber roneitu tih hian, hmecihhia pawh chhungkaw pa ber dinhmunah a din chuan a huam a ni.*

Chang 180 Ro LuahTheituIndawt Dan (1) *Mizote hi chang 178-a sawi angin a Pate lam atanga chithlah kalzel leh ro inluah chhang zel annih avangin roneitu chu pa a ni. Pa a thih chuan nupui chu chang 181(1)-a sawi angin a, roneitu, pa dinhmun luahtu a ni. Ro neitu a thiha roluah theite indawt dan chu hetiang hi a ni: Fate leh mahni bul bal diktak, thisen zawmpui te chauh roluah tu tak tak an ni thei. Mahni bul bal tak tak te chu: fate, pa te, pianpui unaute, pa unaute, pu (pate pa) te, tupa (fapa fate) te, fanu leh tunu (fapa fanu) te leh an thlah te an ni.*

Chang 180(2) (a) : *Ro neitu roluah tur hian, nu leh pa awmpuaitu, fapate an lalber a, chumi zingah pawh chuan fatlum, chhungpuifa (nupui dik tak fa) his nu leh pa chawm hlum tura ngaih a nih avangin a lalber a ni. Fatlum*

pawh ni se in dang tawh, nu leh pa awmpui lo a nih chuan, a fapa dangte chuan a naupan dan indawtin chumi dinhmun chu an rawn luah ang a. Fapate zingah chutianga nu leh pa awmpuia, chawm hlum thei an awm loh chuan, awmpuitu leh chawm tu chu fanu pawh nise roluahtu a ni thei. Fapa mal chu hnathawhna leilet emaw, huan emaw, hna dang avangin emaw in hrangah lo awm mah sela, rokhawm thei lo tur anga indanga ngaih tur a ni lo. Nu hrang laka fate pawh pa hnena an awm chuan, roluah tu dik tak an ni a, Nu hnena awm nghet erawh chuan, fapa, pa hnena khawsa an awm chhung chuan pa rovah chanvo a nei lo.

Chang 181 Roluah Dan (1)*Ro neitu, fanu fapa nei a thih chuan, a fate chu an nu hovin an khawsa ang a, an nu chu chang 178 leh chang 180-a sawi angin a roneitu pa dinhmun luahtu a ni. A fate leh a tute chungchangah pawh, a pa dam laia pa dinhmun luah in, fate man tel tu leh pusum eitu a ni. Ro luah chungchangah pawh tuma tihbui theih a ni lo. Hetianga tu leh fate enkawl thei nu chu, nu dik leh nu rinawm, nu zahawm leh chhuan tlak, nu thianglim a ni. Chutiang a nih zawh loh erawh chuan, chanvo engmah a nei thei lo.*

Pa remtihna a lo in dang tawh fapa tan emaw, chanvo siamsak leh tul bikna avang emawa In Lo Ram dinhmun tih danglam tur thuah pawh, nu remtihna tel lo chuan tih theih a ni lo. Amaherawh chu, nu chuan pa dam laia pa duh dan tlangpui chu a zawm ngei tur a ni

(9)*Mizo Ro in luah chhawn danah hian, tul bik na a awm chuan, Roreltu hnen atangin Ro luah na lehkha lak tur a ni.*

11. In the case of **Ms.Kusum Ingots & Alloys Ltd. Vs Union of India and Anr. 2004 AIR 2321, 2004(1) Suppl.SCR 841, 2004(6) SCC 254** it was held that **"Cause of action implies a right to sue. The material facts which are imperative for the suitor to allege and prove constitute the cause of action...."**
12. In the present case P.C. Lalthazovi, mother of the review petitioner was living with her children including the review petitioner after the death of her husband since 12.1.1997 and as stated by the petitioner in his cross-examination that his mother does not married to any other man. On the basis of Chang 178, 180(1) and 181(1) of the Mizo Customary Law, Inheritance of fathers (head of family) property as stated above, on the

death of her husband Mr.Lalchhuanawma on 12.1.1997, P.C. Lalthazovi, mother of the review petitioner was automatically become the head of the family and by virtue of Chang 181(1) as the head of the family she has the power to control over all the properties of the family as she remains a chaste widow and look after the welfare of her minor children. Further, that being the youngest son does not automatically confers absolute rights over the family properties as long as the head of the family is still alive. And furthermore, by virtue of Chang 181(9) mother of the review petitioner does not need to obtain Heirship Certificate under ordinary circumstances but only in special circumstances.

13. Therefore, on the basis of facts and circumstances of the case as stated above with the Mizo Customary Law regarding inheritance of father (Head of the family) property, this issue is decided that the review petitioner has no cause of action/locus standi to file the instant review petition and the issue is decided in a negative.
14. **Issue No. 3: Whether the H.C. No. 260 of 2005 is liable to be reviewed as prayed for?** The review petitioner C.Lalhriatrenga stated in his examination-in-chief on affidavit as PW-1 that under the Mizo Customary Law, being the youngest son he is the rightful owner of the LSC No. AZL-1678 of 1994 which was registered in the name of his deceased father. But in the year 2005 as he is a minor his mother P.C. Lalthazovi obtained Heirship Certificate No. 260 of 2005 without his knowledge and consent. PW-1 exhibited H.C. No. 260 of 2005 as Ext. P-2.
15. During the whole process of trial the O.P. No.1, P.C. Lalthazovi who is the mother of the review petitioner had never appeared before the Court. Therefore, for correct findings and just decision let us go through the relevant section/Chang under the Mizo Customary law again, thus-

Chang 181 Roluah Dan (1)*Ro neitu, fanu fapa nei a thihchuan, a fate chu an nu hovin an khawsa ang a, an nu chu chang 178 leh chang 180-a sawi ang in a roneitu pa dinhmun luah tu a ni. A fate leh a tute chungchangah pawh, a pa dam laia pa dinhmun luah in, fate man tel tu leh pu sum eitu a ni. Ro luah chungchangah pawh tuma tihbui theih a ni lo. Hetianga tu leh fate enkawl thei nu chu, nu dik leh nu rinawm, nu*

zahawm leh chhuan tlak, nu thianghlim a ni. Chutiang a nih zawh loh erawh chuan, chanvo engmah a nei thei lo.

Pa remtihnaa lo indang tawh fapa tan emaw, chanvo siamsak leh tul bikna avang emawa In Lo Ram dinhmun tih danglam tur thuah pawh, nu remtihna tel lo chuan tih theih a ni lo. Amaherawhchu, nu chuan pa dam laia pa duh dan tlangpui chu a zawm ngei tur a ni

(9)Mizo Ro inluah chhawn danah hian, tul bikna a awmchuan, Roreltu hnen atangin Roluah na lehkha laktur a ni.

16. On the basis of the Mizo Customary law under Bung 12, Inheritance of father's (Head of the family) Property as reproduced above, P.C. Lalthazovi was automatically becomes the head of the family on the death of her husband Lalchhuanawma on 12.1.1997 and by virtue of Chang 181(1) as the head of the family she has the absolute power to control over all the properties of the family. And in the year of 2005, while the present review petitioner was about 15 years of age (i.e. a minor) the said P.C. Lalthazovi obtained Heirship Certificate No. 260 of 2005 which is not mandatory for the head of the family by virtue of Chang 181(9) of the Mizo Customary Law but the same is suggested only in special circumstances. However, the said P.C. Lalthazovi applied for heirship in respect of LSC No. AZL-1678 of 1994 (Ext. D-3) with agreement letter from the brothers of her deceased husband (Ext.D-4) and witness letter from the Village Council concerned (9Ext.D-5), and while submitting H.C. application she was also accompanied by the present review petitioner and his brother (Ext.D-3). Therefore, H.C. No. 260 of 2005 was issued by the erstwhile Sub-District Council Court, Aizawl having jurisdiction by following necessary procedures and with regards to the claimed of the review petitioner that being the youngest son of his father he is the legal heir and rightful owner of his deceased father's properties is misconceptions about the Mizo Customary Law which is clear in plain reading of Section 180(2)(a) of the Mizo Customary Law. Therefore, the present issue is decided in a negative.
17. **Issue No.4: Whether the Counter claimant has a right to file counter claim against the review petitioner?** Shri F.Lalbuanga the counter claimant stated in his examination-in-chief on affidavit as DW-1 that on 1.8.2005, P.C. Lalthazovi the petitioner's mother mortgaged the said land

covered by LSC No. AZL-1678 of 1994 to one Shri F. Aikhuma of Chhinga Veng and she had borrowed a sum of Rs. 5,00,000/- (Rupees five lakhs) with the condition that if she was unable to repay the said sum with interest within two months, Shri F. Aikhuma will become the owner of the said landed property and she would vacate the said land and in the event of her unable to get another place for her stay she would pay house rent to Shri F.Aikhuma. As the petitioner's mother fails to repay her borrowed money within time, Shri F.Aikhuma became the owner of the said plot of land covered by LSC No. AZL-1678 of 1994 and thereafter, he had purchased the said landed property at the rate of Rs. 10,00,000/- (Rupees ten lakhs) from Shri F.Aikhuma and P.C. Lalthazovi started paying rent at the rate of Rs. 2000/- per month to him (i.e. Shri F.Lalbuanga). DW-1 further stated that in the month of September, 2008 he had requested the petitioner's mother to vacate the said building covered under LSC No. 1678 of 1994 but instead of vacating the building, the petitioner's mother through the petitioner had filed a petition for review of the H.C. No. 260 of 2005. DW-1 exhibited *In hmun Dahkham Intiamna* dt. 1.8.2005 as Ext. D-1, copy of LSC No. AZL-1678 of 1994 as Ext. D-6, In leh hmun leina as Ext. D-7, copy of House rent receipt as Ext. D-8. In his cross examination DW-1 stated that he knows Pi Lalthazovi just a day before he had purchased the LSC No. 1678 of 1994 from Shri F.Aikhuma and the LSC was in the name of Pi Lalthazovi's husband Lalchhuanawma. He had further stated that Pi Lalthazovi used to pay house rent till May, 2008 to him and they had requested Pi Lalthazovi to vacate the building because they want to live in the house.

18. F.Aikhuma stated in his examination-in-chief on affidavit as DW-2 that on 1.8.2005, Pi Lalthazovi, mother of the petitioner borrowed his money amounting to Rs. 5,00,000/- with a promise to repay within two months with an interest of Rs. 2,00,000/- and Pi Lalthazovi handed over to LSC with its connected documents to him. As Pi Lalthazovi fails to repay her debt within the stipulated period of two months he became the owner of the said plot under the said LSC and he had sold the same at the rate of Rs. 10,00,000 to Pu F.Lalbuanga of Dulte and he had handed over the original copy of the said LSC with connected documents to Pu F.Lalbuanga and he had (Pu F.Lalbuanga) also received house rent @ Rs. 2000/- per month w.e.f.

October, 2005. DW-2 exhibited Ext.D-1(a) and D-7(b) as his signatures. In his cross examination DW-2 stated that as Pi Lalthazovi could not pay her debt within the stipulated period of two months he became the owner of the said LSC and he does not know as to whether it is illegal or not to make interest at the rate of Rs. 2,00,000/- in two months' time.

19. In his examination –in-chief on affidavit as PW-1, the review petitioner does not mentioned about the counter claimant and his claims but in his cross-examination he had stated that the LSC was handed over to F.Aikhuma by his mother Lalthazovi for taking Rs. 7,00,000/- (Rupees7 lakhs) from F.Aikhuma as bond and that as per the agreement between F.Aikhuma and his mother P.C. Lalthazovi if she failed to repay Rs. 7 lakhs within 60 days from 1.8.05 the property shall belongs to F.Aikhuma. PW-1 further stated that the property covered by LSC No. AZL-1678 of 1994 was purchased by F.Lalbuanga from F. Aikhuma for Rs. 10 lakhs and in the agreement it was agreed by his mother that she would pay house rent till she vacate the land and as such his mother paid house rent @ Rs. 2000/- to F.Lalbuanga. The reason why his mother was paying rent to F.Lalbuanga was that he had already paid the cost of land and building and became the owner of the property in question.
20. On plain reading of the available evidences on records as adduced by witnesses for both the parties with their cross-examination, it is an admitted facts for both sides that on the relevant time and date, mother of the petitioner borrowed money amounting to Rs. 5,00,000 (five lakhs) only from one F. Aikhuma with a condition that she would repay her debt within two months with an interest of two lakhs failing which a plot of land covered by LSC No. AZL-1678 of 1994 would become the property of the said F.Aikhuma. As the mother of the petitioner fails to repay her debt within time F.Aikhuma became the owner of the LSC and the said LSC was subsequently purchased by F.Lalbuanga at the rate of Rs. 10 lakhs from F.Aikhuma. As per agreements between the parties mother of the petitioner paid house rent at the rate of Rs. 2000/- per month to F.Lalbuanga from October, 2005 to August, 2008 which indicates that the house was no more belongs to her but refused to pay since then and the instant review petition.

21. Therefore, on the basis of evidences adduced by both the parties with circumstances of the case as stated above, the present issue is decided in a positive.
22. **Issue No. 5: Whether there is collusion between the review petitioner and his mother.** In his cross examination, the review petitioner stated that he does not filed this review petition as per the dictation of his mother in order to take back the land which was already given to F.Aikhuma by his mother without paying the amount already taken by his mother and he had strongly denied the allegation of filing this instant review petition with collusion with his mother.
23. Whereas Shri Lalbuanga stated in his examination-in-chief that the petitioner has filed the review petition in collusion with the petitioner's mother, knowing fully well that he has no locus standi to file this application as he was present before the Court when his mother submitted application for obtaining the heirship certificate.
24. In consideration of both submissions with careful perusal of available materials on records it is found that the defendant No.1 P.C. Lalthazovi neither submitted any objection nor adduced any evidences in support of either party while review petitioner is none other than her own son challenging her action. Therefore, in all probabilities, this Court is of the considered opinion that there is collusion between the review petitioner and his mother and this issue is decided in a positive.
25. **Issue No. 6: Whether the review petitioner is entitled to the relief claimed, if so, to what extent?** For determination of this issue, the Id. Counsel for the review petitioner strongly argued that taking into account all the evidences duly adduced by the witnesses of the parties and the materials available on records, it is a fit case and reasonable case to allow the instant review petition of the petitioner and to cancel the Heirship Certificate No. 260 of 2005 and also to dismiss the counter claim of the O.P. Whereas the Id. Counsel for the opposite party prays to dismiss the instant review application filed by the petitioner with cost.
26. On the basis of findings and reasons on various issues as discussed above, this Court finds no cause of action/locus standi in favour of the review petitioner and no case on merit have been found in his favour and the

present issue is decided in a negative that the review petitioner is not entitled to the relief claimed and, therefore this instant review petition is liable to be dismissed.

ORDER

27. Upon hearing of both parties with careful consideration of their respective submission and on the basis of findings and reasons on various issues as discussed, this Court finds no cause of action/locus standi in favour of the review petitioner and no case on merit have been found in his favour and, therefore, the present Review Case No. 16 of 2008 is hereby dismissed and disposed of accordingly.
28. Interim Order dated 17th October, 2008 for staying the operation of Heirship Certificate No. 260 of 2005 is hereby vacated.
29. No order as to cost on due to peculiar nature of the case.
30. Given under my hand and seal of the Court on this 11th December, 2017.

(T. LALHMACHHUANA)

Civil Judge-1
Aizawl District, Aizawl.

Memo No _____ CJ-1(A)/2017 : Dated Aizawl, the 11th December, 2017.

Copy:

- (1) Shri C.Lalhriatrenga R/o Durtlang Leitan, Aizawl through Sh. L.H. Lianhrima, Sr. Advocate & Ors.
- (2) Smt. P.C. Lalthazovi M/o C.Lalhriatrenga R/o Durtlang Leitan, Aizawl through W. Sam Joseph, Advocate & Ors.
- (3) Sh. F.Lalbuanga R/o Dulte C/o F.Vanlalruata R/o Ramhlun South, Aizawl through Sh. W. Sam, Joseph, Advocate & Ors.
- (4) District Judge, Aizawl.
- (5) Registration Section.
- (6) Guard File.
- (7) Case Record.

PESHKAR

**REVIEW CASE NO. 16 OF 2008
(A/o Heirship Certificate No. 260 of 2005)**

INDEX

A. LIST OF EXHIBITS

1. For the Petitioner:

- (a) Ext. P-1 is Review Petition
- (b) Ext. P-1(a) is signature of PW No.1
- (c) Ext. P-2 is copy of H.C. No. 260 of 2005.
- (d) Ext. P-3 is Copy of LSC No. AZL-1678 of 1994.
- (e) Ext.P-4 is copy of letter issued by F.Lalramngheta dt.2.10.08.

2. For the O.P. :

- (a) Ext.D-1 is Inhmun Dah kham Intiamna
- (b) Ext.D-1(a) is signature of DW-2
- (c) Ext.D-2 is copy of H.C. No. 260 of 2005.
- (d) Ext.D-3 is copy of H.C. Application.
- (e) Ext.D-4 is copy of agreement dt. 1.8.2005.
- (f) Ext.D-5 is copy of Letter issued by VCP, Durtlang Leitan.
- (g) Ext.D-6 is Copy of LSC No. AZL-1678 of 1994
- (h) Ext.D-7 is In leh hmunleina
- (i) Ext.D-7(a) is signature of DW-1
- (j) Ext.D-7(b) is signature of DW-2
- (k) Ext. D-8 is House Rent receipt.
- (l) Ext.D-8(a)(b)(c) are signatures of DW-1
- (m) Ext.D-9 is agreement Dt.02.08.2005

B. LIST OF WITNESSES

1. For the Petitioner

- (a) PW No.1 C.Lalhriatrenga

2. For the O.P.

- (a) DW-1 F. Lalbuanga
- (b) DW-2 F.Aikhuma