

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

DECLARATORY SUIT NO.23 of 2016

K. Lalthapuii,
S/o Lalthanzaui,
R/o SihphirArpuVeng, Mizoram. ... Plaintiff

Vs

C. Lalnunthara,
S/o C. Laldingngheta,
R/o Selesih, Mizoram. ... Defendant

B E F O R E

**Shri T. Lalhmachhuana, Civil Judge-1,
Aizawl Judicial District, Aizawl.**

P R E S E N T

For the Plaintiff : Mr. T. Lalnunsiam, Advocate & Ors.
For the Defendant :
Date of hearing : 21.08.2017
Date of Judgment & Order : 20.09.2017

JUDGMENT AND ORDER

Dated Aizawl, the 20th September, 2017

1. This is a suit filed by Smt. K. Lalthapuii, D/o Lalthanzaui of Sihphir, ArpuVeng, Mizoram against Shri C. Lalnunthara, S/o C. Laldingngheta of Selesih, Mizoram for passing a decree declaring that the defendant has an outstanding debt amounting to Rs. 70,000/- with pendente lite interest at Rs. 12% per annum towards the plaintiff.

2. The Plaintiff, in her plaint stated that both the parties were married in the year of 2009 and the defendant joined the plaintiff's family and lived with them till they got separated on 2.1.2013. As a result of their marriage two children - C. Lalhruaitluanga (D.O.B. 1.9.2009) and Melissa Lalhriathlui (D.O.B. 2.7.2012)

were born. During the time of their marriage Shri C. Laldingngheta, father of the defendant intended to purchase a motor vehicle i.e. Sumo for the defendant and the same is informed to the plaintiff that he was in need of financial support for the said purchase but the plaintiff and her mother did not agree with the purchase of vehicle in their expense. As the defendant was strongly desired to purchase the said vehicle he along with his father tried to obtain Bank loan but they could not meet with the requisite amount of money to be deposited and strongly prayed support to the plaintiff and her mother. The plaintiff and her mother finally agreed and deposited Rs. 50,000/- for advance payment at the bank. After the said vehicle was purchased another amount of money was spend by the plaintiff for workshop charge, registration fees and accessories etc. amounting a total amount of more than Rs. 1,20,000/- in which the defendant repay only Rs. 50,000/- in two installments @ Rs. 20,000/- and 30,000/- respectively but refused to pay the remaining amount of Rs. 70,000/- till date. Hence, this instant petition and the plaintiff prayed for the following reliefs –

- (a) To pass a decree declaring that the defendant has an outstanding debt amounting to Rs. 70,000/- with pendent lite interest @ 12% per annum towards the plaintiff.*
- (b) To pass a decree directing the defendant to pay Rs. 70,000/- with pendent lite interest at 12 % per annum.*
- (c) To pass a decree declaring that the defendant is liable to pay cost of the suit along with the lawyers fee's etc.*
- (d) To pass any further order(s) in favour of the plaintiff for ends of justice.*

3. The suit is filed along with requisite Court fees of Rs. 3429/- and also accompanied with vakalatnama executed by the plaintiff in favour of Mr. T. Lalnunsiam, Advocate and others.

4. The suit is accepted and registered as Declaratory Suit No. 23/16.

5. Processes have been issued and summons was duly served to the defendant and he was given ample chance for filing his written statements but the defendant neglected to contest his case. After failing to file his W/S his chance was closed and on the basis of prayer submitted by the Ld. Counsel for the plaintiff the suit is proceeded ex-parte and the following issues were framed for consideration -

- (i) *Whether the suit is maintainable in its present form and style or not ?*
- (ii) *Whether the plaintiff spent a total sum of Rs. 1,20,000/- for purchase of Maxi Cab Sumo and for its maintenance or not ?*
- (iii) *Whether the plaintiff is entitled to relief claimed or not ?*
- (iv) *If yes, to what extend and from whom?*

Findings and reasons thereof-

6. Issue No. 1 :For determination of Issue No. 1 as to whether the suit is maintainable in its present form and style or not.For filing of a suit before a Civil Court the plaintiff is mandate to value the suit for determination of Pecuniary Jurisdiction of Civil Court and for payment of Court fees. Admittedly the present suit is valued as Rs. 70,000/- only and as such the Court fees payable as per the Court fees Amendment Act, 1996 is Rs 3429/- and the same amount is paid while filing this instant suit. The cause of action arose on 2.1.2013 when the parties got divorce and again on 12.1.2016 and 12.3.2016 when legal notice were served to the defendant and the parties were lived in Sihphir and Selesih respectively which is Aizawl District, Mizoram. Therefore, this court have pecuniary as well as territorial jurisdiction to try the suit which is filed within time and as such the suit is maintainable.

7. IssueNo. 2 : For determination of Issue No. 2 as to whether the plaintiff spend a total sumof Rs. 1,20,000/- for purchase of Maxi Cab Sumo and for its maintenance or not the plaintiff in her examination-in-chief or affidavit as PW-1 stated that father of defendant intended to purchase a motor vehicle i.e. Sumo (Maxi Cab) for the defendant and the plaintiff was informed that he was in need of financial support but the plaintiff and her mother did not agree with the same. As the defendant and his father tried to obtain Bank loan they could not meet with the requisite amount of money to be deposited to the Bank they had strongly prayed for their support. Thereafter, the plaintiff and her mother decided to spend Rs. 50,000/- (Rupees fifty thousand) for advance deposit at the bank. After the said vehicle was purchased another sum of Rs. 40,000/- (Rupees forty thousand) was spend for workshop charge, Rs. 20,000/- (Rupees twenty thousand) for registration and its connected fees at the District Transport Office, Rs. 2,000/- (Rupees Two thousand) for purchase of permit and another Rs. 8,000/- (Rupees eight thousand) for car tape and its fitting which amounting to total

amount of Rs. 1,20,000/- excluding another expenditure for maintenance of the vehicle.

8. Considering the evidence of PW. 1 regarding her expenditure amounting to Rs. 1,20,000/- of Maxi Cab Sumo with accessories and other related expenses this court have no ground to disbelieve the only available evidence on records. And, therefore, this point is decided in a positive.

9. **Issue No. 3 : For determination of Point No. 3 as to whether the plaintiff is entitled to the relief claimed or not** the plaintiff stated in her examination in chief on affidavit as PW-1 that when the parties were getting divorce on 2.1.2013 the defendant left the plaintiff and joined his parents again. But unexpectedly he had taken the vehicle Maxi cab sumo with him. Afterwards, the defendant and his family assured that all the expenditure incurred by the plaintiff shall be repaid but after repeated reports, a sum of Rs 20,000/- (twenty thousand) and Rs 30,000/- (thirty thousand) only amounting to Rs 50,000 (fifty thousand) was paid in two installments but the remaining amount of Rs 70,000/- (seventy thousand) was not paid till date. However, the defendant was served legal notice through lawyer but as the defendant has not made positive response the plaintiff approach LokAdalat for amicable settlement between them and the Authority repeatedly summoned the defendant but still refused to appear before the Loki Adalat and hence, the case became un-settled as such, having no other alternative the plaintiff approached this Court for seeking relief and justice.

10. Considering the evidence of PW-1, it is evident that the plaintiff spend Rs 1,20,000/- (one lakh and twenty thousand) for purchase of Maxi Cab Sumo with its repairing and other connected expenses and when the parties were getting divorced the defendant took the maxi cab sumo with him to his parental home and assured the plaintiff that they will repay all the expenditures incurred by the plaintiff. But out of Rs 1,20,000/- the defendant repay only Rs 50,000/- in two installments at the rate of Rs 20,000/- and Rs 30,000/- respectively but refused to pay the remaining balance amounting to Rs 70,000/-. On the basis of Plaintiff evidence, legal notice through her legal counsel and summons of LokAdalat were duly served to the defendant but he does not want to appear before the LokAdalat and neglected the legal notice by the plaintiff. Therefore, on the basis of facts and

circumstances of the case as stated above this point is decided in favour of the plaintiff.

11. **Issue no. 4: If yes, to what extend and from whom?** In the present case the plaintiff prays to pass a decree declaring that the defendant has an outstanding debt amounting to Rs 70,000/- (seventy thousand) only with pendent lite interest at 12% per annum towards the plaintiff.

12. With regards to an interest at the rate of 12% per annum, this court have also going through **the Hon'ble Supreme Court of India's decision in the case of Ramesh Chandra VrsAsruddin in Civil Appeal No. 8427 of 2014** as decided on 6.10.2015 that -

"9 In the above facts and circumstances of the case and the Judicial Principle discussed above, we are of the opinion that it is a fit case when instead of granting decree of specific performance, the plaintiff can be compensated by directing the appellant to pay a reasonable and sufficient amount to him. We are of the view that mere refund of Rupees 4 lacs with interest @ 8% Per annum, as directed by the trial Court, would be highly insufficient. In our considered opinion, it would be just and appropriate to direct the appellant to repay rupees 4 lacs along with interest @ Rs. 18% Per annum from 21.6.2004 till date within three months from today."

13. On the basis of findings and reasons in the above issues with the decision of the Hon'ble Supreme Court of India as stated above this Court is of the considered opinion that the plaintiff is entitled to receive an outstanding debt amount of Rs 70,000/- (seventy thousand) with an interest at the of 12% per annum from the defendant on the ground that the defendant not only refused to pay his debt amounting to Rs. 70,000/- but also neglected and refused to attend LokAdalat and Legal notice inspite of summons duly served.

ORDER

14. It is hereby ordered that the Defendant ShriC.Lalnunthara S/o C.Laldingngheta, Selesih, Mzoram shall pay an outstanding debt amounting to Rs. 70,000/- (Rupees seventy thousand) only to the plaintiff within three (3) months

from the date of this order with an interest at the rate of 12% per annum with effect from the month of March, 2016 until full realization of the amount dues.

15. Further, the defendant Shri C. Lalnunthara S/o C.Laldingngheta, Selesih, Mzoramshall also pay Rs. 5000/- (Rupees Five thousand) only to the plaintiff as cost of the suit under the provision of Section 35 of the Code of Civil Procedure.

16. Given under my hand and Seal of the Court on this 20th September, 2017 within the premises and during the working hour of the Court and is pronounced in an open Court.

(T. LALHMACHHUANA),
Civil Judge - 1
Aizawl Judicial District, Aizawl.

Memo No. CJ-1(A)/2017 : Dated Aizawl, the 20th September, 2017.

Copy to :

1. Smt. K. Lalthapuii, D/o Lalthanzauvi, R/o SihphirArpuVeng through her Counsel ShriT. Lalnunsiam, Advocate &Ors.
2. Shri C. Lalnunthara, S/o C. Laldingngheta, R/o Selesih, Mizoram.
3. District & Sessions Judge, Aizawl.
4. Registration Section.
5. Guard file
6. Case record.

P E S H K E R

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

DECLARATORY SUIT NO. 23 of 2016

K. Lalthapuii,
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Vs

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B E F O R E

**Shri T. Lalhmachhuana, Civil Judge-1,
Aizawl Judicial District, Aizawl.**

P R E S E N T

For the Plaintiff : Mr. T. Lalnunsiam, Advocate & Ors.
For the Defendant :
Date of Judgment & Order : 20.09.2017
Date of Decree : 20.09.2017

DECREE

Dated Aizawl, the 20th September, 2017

1. This Declaratory Suit No. 23 of 2016 coming on this 20th September, 2017 for final disposal before T. Lalhmachhuana, Civil Judge-1, Aizawl Judicial District, Aizawl. It is ordered and decreed that the defendant Shri C. Lalnunthara S/o C. Laldingngheta, Selesih, Mzoram shall pay an outstanding debt amounting to Rs. 70,000/- (Rupees seventy thousand) only to the plaintiff within three (3) months from the date of this order with an interest at the rate of 12% per annum with effect from the month of March, 2016 until full realization of the amount dues.

2. Further, the defendant Shri C. Lalnunthara S/o C. Laldingngheta, Selesih, Mzoram shall also pay Rs. 5000/- (Rupees Five thousand) only to the plaintiff as cost of the suit under the provision of Section 35 of the Code of Civil Procedure.

3. Given under my hand and Seal of the Court on this 20th September, 2017 within the premises and during the working hour of the Court and is pronounced in an open Court.

Seal of the Court

Judge

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Declaratory Suit No. 23/2016.

A. List of Exhibits

1. **For the Plaintiff** : NIL

2. **For the Defendant** : NIL

B. List of Witnesses

1. **For the Plaintiff**

(a) PW-No.1Smt. K.Lalthapuii R/o Sihphir, ArpuVeng, Mizoram.

2. **For the Defendant** : NIL