

1. The suit is not maintainable in its present form and style and the Plaintiff has no locus standi to file the instant suit.
3. The suit failed to disclose real cause of action.
4. The suit is barred by limitation.

The Ld. Counsel for the Defendant submitted that there is no decree which gave the Plaintiff the title and peaceful enjoyment over the suit land. The Ld. Counsel for the Defendant relied on the decision of the Apex Court in the case of **Garunath Manohar Pavaskar & Ors vs Nagesh Siddappa Navalgund & Ors** in which the Apex Court decided that ***"A revenue record is not a document of title. It merely raises a presumption in regard to possession. Presumption of possession and/ or continuity thereof both forward and backward can also be raised under Section 110 of the Indian Evidence Act."*** He further submitted that the Defendant can not be evicted solely on the basis of LSC without decree from competent court. The Ld. Counsel for the defendant also submitted that the plaint fails to disclose the real cause of action. The cause of action accrued in the month of May-April 1995 when the defendant constructed a residential building in the suit land.

On the other hand the Ld. Counsel for the Plaintiff vehemently argued and submitted that the case cited by Ld. Counsel for the Defendant can not be applied as the LSC No AZL 1462 of 1994, belonging to the Plaintiff is not disputed. There is no pending case over the title and ownership of the suit land. The Ld. Counsel for the Plaintiff further argued that he agreed with the permission granted by the father of the plaintiff to let the Defendant and her family stay at the suit land and the cause of action arose when the Defendant fails to comply with the Eviction Notice ie. 17.1.2013 and the present suit is filed in time.

Considering both submissions and the records available it is observed by this court as follows. On his written statement, the Defendant stated that the land on which they built residential house was gave to the defendant by the father of the plaintiff by way of gift and also stated that the mutation, registration and mutation and issuance of LSC No. AZL 1462 of 1994 in the name of plaintiff is null and void since the plaintiff was minor at that time. The defendant also made counter-claim claiming over the suit land. Though the counter claim of the defendant can not be maintained due to lack of jurisdiction, it can not be said that the suit land is

undisputed. As seen from the above it is clear that the title with regard to the suit land is clearly in dispute. Hence, no eviction order can be passed without declaring title over the suit land. In the

instant case, questions of the title over the suit land can not be settled as the plaintiff valued the suit only for the building without the suit land. If the suit is valued for the suit land it may cross the limit of the pecuniary jurisdiction of this court. Besides this court has not been called by the parties to declare title over the suit land. Hence, the suit is not maintainable in its present form and style and the Plaintiff have no locus standi to file the instant suit.

Regarding the cause of action, though the Ld. Counsel for the Plaintiff submitted that the Plaintiff agrees with the permission granted by the father of the Plaintiff, the plaintiff in the para 6 of his plaint stated that "..... Moreover, the permission granted by the father of the plaintiff to let the Defendant and her family stay at the suit land can not be held valid in as much as the father of the Plaintiff does not have any right whatsoever upon the land which was belonging to the Plaintiff", the Plaintiff can not go beyond his pleading. Moreover, no cause of action arises merely by giving the eviction notice to the Defendant without reasonable cause. From the light of the above discussion it is clear that the plaint did not disclose the real cause of action as the cause of action arose in the month of May-April 1995.

Since the cause of action arose in the month of May-April 1995, the suit is barred by limitation.

Hence, from the above discussion, the eviction suit filed by the plaintiff is not maintainable and the same is accordingly dismissed.

With the above order the case stands disposed of.

Sd/- LALRAMSANGA  
Magistrate First Class,  
Aizawl District, Aizawl.

Memo No \_\_\_\_\_ /CJ(A)2013 : Dated Aizawl the, 7<sup>th</sup> October, 2013

Copy to :-

1. Rebecca Lalramnghaki D/o Lalthanmawia of Venghnuai Thakthing, .
2. Lalrinmawii W/o H.T Lalrinawma (L) of Venghnuai Thakthing, Aizawl.
3. Trial Magistrate, Lalramsanga, Magistrate 1<sup>st</sup> Class.
4. Case Record.

PESHKAR