

IN THE COURT OF ADDITIONAL DISTRICT JUDGE
AIZAWL JUDICIAL DISTRICT, AIZAWL, MIZORAM.

Present : Shri Vanlalenmawia, MJS
Additional District Judge,
Aizawl Judicial District, Aizawl.

Regular First Appeal No. 10 of 2013
Arising out of Civil Suit No. 11 of 2006

Shri Hrangmana
S/o Lianbula (L),
R/o House No. C-18, Dawrpui Vengthar Gina Mual,
Aizawl, Mizoram.Appellant

-versus-

1. The State of Mizoram (through the Chief Secretary to the Government of Mizoram, Aizawl).
2. The Secretary to the Government of Mizoram, Revenue Department, Aizawl.
3. The Director,
Land Revenue & Settlement, Mizoram, Aizawl.
4. The Commissioner to the Government of Mizoram, L.A.D., Aizawl.
5. The Director,
L.A.D., Mizoram, Aizawl.
6. The Under Secretary to the Government of Mizoram, L.A.D., Aizawl.
7. The Assistant Settlement Officer-I,
Aizawl District, Aizawl.
8. The Chairman B.P.L. pawl,
Dawrpui Vengthar, Aizawl.
9. The President,
Village Council, Dawrpui Vengthar, Aizawl. Respondents

APPEARANCE

For the appellant	:	Shri W.Sam Joseph, Advocate.
For the respondents 1-7	:	Shri Joseph Lalfakawma, Addl. G.A.
For the respondent 8	:	None appears

For the respondent 9 : Smt. Rose Mary, Advocate.

Hearing : 12.3.2015

Order delivered on : 26.3.2015

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

By the order dated 20.09.2013 passed by the Hon'ble Single Judge, Gauhati High Court, Aizawl Bench in RSA. No. 6 of 2013, the order dated 19.07.2013 passed in RFA. No. 10 of 2013 was set aside and quashed and the matter was remanded back to the learned District Judge for consideration of RFA. No. 10 of 2013 afresh by strictly following the provision of Order 41 Rule 31 of CPC and thereafter to pass appropriate order.

1. The appeal was transferred to my predecessor. Hence, the appeal came for my disposal.

2. In the learned Trial Court, the appellant made a prayer for passing a decree to declare that his land covered by LSC No. 233 of 1974 was encroached upon by the respondents and to direct them to pay a sum of Rs. 1 lakh to him including cost of the suit and interest at the rate of 9% per annum with effect from 7.11.2004. The appellant further made a prayer for passing a decree to direct the respondents to pay a sum of Rs. 50,000/- as compensation for the injury caused to him due to the said encroachment including interest at the rate of 9% per annum with effect from 7.11.2004. The appellant also made a prayer for passing a decree ordering the respondents to make retaining wall to safe guard the building constructed by his brother within his land since the pillars of the building are exposed due to the illegal and forcible removal of the earth from below the said building.

3. The respondents' case is also that the appellant encroached public vacant land, which is bigger than the suit land.

4. The learned Trial Court dismissed the suit filed by the appellant without costs. Thereafter, the learned Appellate Court upheld the Order of the learned Trial Court, but without compliance of Order 41, Rule 31 of CPC. However,

the Order the learned Appellate Court was set aside by the Hon'ble Single Judge of the Gauhati High Court and remanded the matter to the learned District Judge, Aizawl for consideration of RFA No. 10/2013 afresh due to non compliance of the law and without deciding the case on merits.

5. I was pressed by the learned counsels for the parties to hold joint verification on the suit land with the parties so that the issues could be settled and amicable settlement could be reached between the appellant and the respondents. Since there is a provision under Order XVIII, Rule 18 of CPC, I agreed their prayers. The Director of Land Revenue & Land Settlement was directed to detail 2 surveyors to survey the suit land vide Order dated 17.2.2015. Thereafter, Shri F. Lalnghaksanga and Shri Lalnghilhlova, Surveyors were ordered to report themselves before the court on 27.2.2015 at 11:00 Am vide Order Memo No. F.21011/2/2014-Tech/DTE(REV) dated 27.2.2015. On the date fixed for the report and survey, Shri C.Lalnghillova appeared. Shri F.Lalnghaksanga who was also detailed with Shri C.Lalnghilhlova did not appear on the date fixed for the report and the survey without mentioning any reason of his absence. In agreement with the learned counsels for the parties, on 4.3.2015 at around 2 Pm we proceeded to hold joint verification. Accordingly, joint verification was held in the presence of the learned Counsels, Shri Laldinliana (Chairman) and Shri Zoramthanga (Treasurer) of the local Council of Dawrpui Vengthar, Aizawl. There was no complaint received from the parties at the time of holding joint verification. The Director, Land Revenue & Settlement Department, Mizoram submitted the factual report to the court on 11.3.2015. On 12.3.2015 when hearing was fixed, the learned Counsels for the parties accepted the report of the Director.

6. In the Report, it is shown that the appellant's portion of land about 5.90 sq metres was encroached by the respondents for construction of approach road to the house of Shri Hunruata. It is also shown in the report that about 16.00 sq metres portion of vacant land was not included on the land of the appellant covered by LSC No. 233/1974.

7. I also perused the evidence on record of the learned Trial Court.

8. While having hearing, the appellant withdrew claiming compensation due to the damages caused to him by way of construction of approach road to Sri

Hunruata. On the other hand, the learned Counsels appearing for the respondents and particularly the Office Bearers of Dawrpui Venthlar Local Council who appeared on the day of hearing agreed that they would not make objection if the appellant applies for the vacant land to the Director, Land Revenue & Settlement Department, Mizoram, which the appellant has claiming as his land.

9. Hence, it is ordered that the appellant is not entitled to compensation for the suit land. It is also ordered that if there is any application made from the appellant for inclusion of the vacant land to his LSC, then the authority is advised to allow his application since amicable settlement is arrived between the appellant and the respondents.

10. I appreciate the Director of Land Revenue & Settlement for his help in settling the long pending case.

11. The appeal is disposed of with the order indicated above.

12. Send back the L.C.R.

Given under my hand and seal of this court on this 26th day of March, 2015 in open court.

Sd/- VANLALENMAWIA
Addl. District Judge,
Aizawl Judicial District,
Aizawl, Mizoram.

Memo No. _____/ADJ(A)/2015 : Dated Aizawl, the 26th March, 2015

Copy to: -

1. Hrangmana through Counsel Mr. W. Sam Joseph, Advocate.
2. The State of Mizoram (through the Chief Secretary to the Govt. of Mizoram, Aizawl).
3. The Secretary to the Govt. of Mizoram, Land Revenue & Settlement Department, Aizawl.
4. The Director, Land Revenue & Settlement, Mizoram, Aizawl.
5. The Commissioner to the Govt. of Mizoram, LAD, Aizawl.
6. The Director, LAD, Mizoram, Aizawl
7. The Under Secretary to the Govt. of Mizoram, LAD, Aizawl
8. The Assistant Settlement Officer-I, Aizawl District, Aizawl
9. The Chairman, BPL Pawl, Dawrpui Vengthar, Aizawl.
10. The Chairman, Local Council, Dawrpui Vengthar, Aizawl through Mrs. Rose Mary, Advocate.
11. The District Judge, Aizawl Judicial District, Aizawl.
12. The Senior Civil Judge-I, Aizawl District, Aizawl.
13. Registration Section.
14. Guard File.
15. Case Record.
16. Calendar Judgment.

Through
Id. Addl. GA/AGA

P E S H K A R