

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. 33 of 2014
in Heirship Certificate No. 48 of 2014

Smt. Zonunmawii
d/o Zolura (L),
r/o Mission Vengthlang, Aizawl.Appellant

-versus-

Shri J.Lalsailova
d/o Zolura Sailo (L),
r/o Mission veng, Aizawl. Respondent

APPEARANCE

For the appellant : Shri W.Sam Joseph, Advocate.
For the respondent : Shri B.Lalramenga, Advocate.

Hearing : 13.3.2015
Order delivered on : 13.3.2015

ORDER

1. The appeal petition has been filed against the order issued in favour of the respondent passed by the learned Magistrate, Subordinate District Council Court on 1.2.11.2011 in H.C. Case No. 48 of 2011.

2. The case of the appellant is that the Heirship Certificate No. 48 of 2011 for declaration of legal heir of the deceased Zolura in respect of the land covered by L.S.C. No. 223 of 1975 situated at Mission Veng, Aizawl was issued in favour of the respondent without notice and behind her back on 1.2.2011. Thereafter, the land was mutated in the name of the respondent. She came to know about the mutation of the land in the name of the respondent from her relative on 13.10.2014. She approached the Revenue Department with an application under

R.T.I. Act on 13.10.2014 in order to find out under what authority the LSC which was in the name their father was mutated in the name of the respondent. In response to the application, the State Public Information Officer & Deputy Director of Survey, Land Revenue & Settlement, Mizoram, Aizawl vide his letter No. H.11025/2/14-DTE(REV)/Vol-V/118 dated 14.10.2014 supplied the information that the respondent had obtained the Heirship Certificate in respect of the land and building covered under LSC No. 223 of 1975 on 1.2.2011. According to the appellant, during the life time of Captain Zolura (L) the concrete building was constructed within the land covered under LSC No. 223 of 1975 and it was under the joint possession of Shri Zoremsanga, Shri Zosangluaia, Shri J.Lalsailova and Zonunpari. The land covered under the LSC No. 223 of 1975 covers an area of 5040 Sq. ft.35 bigha. As a sister of the respondent, she wants all her siblings to have owned the aforementioned land and building which was in the name of their late father Captain Zolura. It is the prayer of the appellant to set aside the ex-parte Order dated 1.2.2011 in H.C. Case No. 48 of 2011 and the issuance of Heirship Certificate vide Memo No. SDCC/HC.48/11/242-4 dated 1.2.2011 and allow to file written statement and also to contest the case on merits and pass such other orders as the court deem fit and proper.

3. On the other hand, the attack of the respondent is that he being the youngest surviving son of their late father and since he had been looking after his late parents until death, has the right to inherit his late father's property in accordance with the Mizo Custom in practice in Mizoram. He also states that he has been looking after their sister Zonunpari. It is also the submission of the respondent that while applying the Heirship Certificate before the Court of SDCC, Aizawl, his elder brothers, namely, Shri Remsanga and Shri Zosangluaia issued 'No OBJECTION CERTIFICATE' in his favour.

4. I have perused the records of the learned Trial Court. I find that the 'NO OBJECTION CERTIFICATE' was issued by Shri Remsanga and Shri Zosangluaia in favour of the respondent while applying for the Heirship Certificate.

5. However, on the date fixed for hearing, the rival parties informed the court that they had compromise agreement outside the court and submitted the written compromised agreement on non judicial stamp on 13.3.2015. The compromise agreement is as follows:-

'COMPROMISED SETTLEMENT/AGREEMENT

We, Zonunmawii D/o Zolura (L) R/o Mission Vengthlang, Aizawl and J.Lalsailova S/o Zolura (L) R/o Mission Veng, Aizawl do hereby make this compromised Settlement in respect of RFA No. 33 of 2014 filed by Zonunmawii against J.Lalsailova, as follows:-

- '1. That after filing of the said Appeal, We, Zonunmawii and J.Lalsailova who are the Appellant and Respondent respectively have come into an amicable settlement with a condition that Pu J.Lalremsanga and Pu Zosangluaia, the elder brothers of J.Lalsailova and who are residing in the lower floors of the building covered by LSC No. 223 of 1975 at Mission Veng, Aizawl, shall not be evicted by J.Lalsailova till expiry of 10 years (Ten Years) to be counted from today (i.e. 13.03.2015) and after the expiry of 10 years as stated above, the said siblings of J.Lalsailova shall have no right to remain in the said building.
2. That the Heirship Certificated given to J.Lalsailova vide Memo No. SDCC/HC.48/11/242-4 dated 01.02.2011 in respect of the land and building under LSC No. 223 of 1975 shall stand survived.
3. That in view of the above terms of compromised settlement, We, the above parties agreed to close and dispose of this Appeal at this stage.

IN WITNESS WHEREOF, We have hereunto subscribed our hands and sign this agreement on this the 13th day of March, 2015.

Sd/-
(ZONUNMAWII)
APPELLANT

Sd/-
(J.LALSALOVA)
RESPONDENT

WITNESSED BY:

Sd/-

1. (W.SAM JOSEPH)
Counsel for the Appellant

Sd/-

2. (B.LALRAMENGA)
Counsel for the Appellant'

6. It is pertinent to mention here that the appellant and the respondent have come to amicable settlement voluntarily and without undue influence. Both, the learned Counsels for the rival parties have also agreed.

7. It is ordered that Shri J.Lalremsanga and Shri Zosangluaia can reside in the lower floors of the building covered by LSC No. 223 of 1975 situated at Mission Veng, Aizawl till expiry of 10 years counting from 13.3.2015 and after the expiry of 10 years, Shri J.Lalremsanga and Shri Zosangluaia shall have no right to remain in the said building. It is also ordered that the Heirship Certificate issued in favour of the respondent vide Memo No. SDCC/HC.48/11/242-4 dated 1.2.2011 in respect of the land and building under LSC No. 223 of 1975 shall stand survived.

8. Draw a decree accordingly.

9. Send back the LCR.

10. Give copy of this order alongwith the decree to parties concerned.

Given under my hand and seal of this court on this 13th day of March, 2015.

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

Memo No. _____/ADJ(A)/2015 : Dated Aizawl, the 13th March, 2015

Copy to: -

1. Zonunmawii through Counsel Mr. W. Sam Joseph, Advocate.
2. J. Lalsailova through Counsel Mr. B. Lalramenga, Advocate.
3. District Judge, Aizawl Judicial District, Aizawl.
4. Registration Section.
5. Guard File.
6. Case Record.
7. Calendar Judgment.

P E S H K A R