

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

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

Review Petition No. 5 of 2015
in L.A. Case No. 11 of 2010

1. Shri Lalzarmawia (L) S/o Vanlalliana
(Represented by his son Chanchinmawia)
2. Shri H. Liantluanga S/o Dengkhuma
(Represented by C. Lalengvara S/o C. Zahlira)
3. Shri Zoramthanga C/o Thahluana
4. Shri Lalngaihawma S/o Laibata
5. Shri Rangkhuma (L) C/o Lianchhungi
(Represented by his son Lalrinmawia)
6. Shri P.C. Zothangmawia C/o R. Sangluaii
7. Smt. Chhuanmawii W/o V.L. Hlira
8. Shri Ngurliana (L) S/o Lalmanga
(Represented by his wife Vanlalruati)
9. Shri R. Darbuanga S/o R. Darkhuma
10. Shri Lallianzuala S/o Ngurliana
11. Shri Lalchuangkima (L) S/o H. Thangkima
(Represented by his wife Lalbiakzuali)
12. Shri Thawkmawia S/o K.T. Chhana
13. Shri C. Vanlalhruaia C/o C. Lalsanga
All Residence of Kawnpui, Kolasib District, Mizoram
-Review Petitioners

-versus-

The District Collector, Kolasib District, Mizoram.

.....Opposite Party

APPEARANCE

For the Petitioner	:	Shri Andy Zoramdinliana, Advocate.
For the O.P.	:	Smt. Rose Mary, Standing Counsel,
 Hearing	 :	 13.5.2016
Order delivered on	:	16.5.2016

O R D E R

1. The application has been filed under Order 47 Rule 1 & 2 R/w Section 114 of CPC for review of the Judgment & Award dated 21.11.2011 passed by Shri K.L. Liana, Addl. District Judge-I in L.A. Case No. 11 of 2010.

2. Written statement is filed by the OP.

3. The brief fact of the review petitioners' case is that Id. Addl. District Judge-I passed Judgment & Order dated 21.11.2011 in connection with LA Case No. 11 of 2010 on the ground that the reference application was not filed within 6 months from the date of Judgment & Award. A reference application was filed by the review petitioner for enhancement of land value and also for payment of 30% solatium and 12% interest in connection with the Award No. 3 of 2009 passed by the District Collector, Kolasib.

4. In the written objection submitted on behalf of the OP, the pronouncement of Award No. 3 of 2009 was done on 22.10.2009 and the review petitioners appeared before the Collector at the time of pronouncement of Award, and received the Award without protest. It is also shown in the written objection that the review petitioners fail to submit reference application u/s 18 of LA Act, 1894 within stipulated period of 6 weeks (42 days).

5. I heard the learned Counsel Shri Andy Zoramdinliana appearing for the review petitioners. I also heard the learned Counsel Smt. Rose Mary for the OP.

6. Both the rival parties agreed that the Award No. 3 of 2009 had been pronounced on 22.10.2009. They also agreed that the office of the District Collector, Kolasib had received the reference application on 22.2.2010.

7. The Id. Counsel Shri Andy Zoramdiniana submitted that the reference application had been submitted within a period of 6 months. However, the Id. District Judge-I dismissed the case of the review petitioners for not filing within a period of 6 months. Hence, a review petition.

8. On the other hand, the Id. Standing Counsel appearing for the District Collector, Kolasib submitted that the review petitioners had appeared before the District Collector at the time of pronouncement of Award and received the Award without protest vide Cheque No. C-029479 dated 24.12.2009. The Id. Standing Counsel also submitted that the review petitioners had failed to submit reference application u/s 18 of LA Act, 1894 within stipulated period of 6 weeks (42 days).

9. I perused the records of L.A. Case No. 11 of 2010 including the reference application made u/s 18 of L.A. Act which is placed before me.

10. Whether the review petitioners were present or represented before the Collector at the time when he made his award on 22.10.2009 is the main issue raised before me. Under the proviso to sub-section (2) of Section 18 of L.A. Act, 1894, every such application shall be made: (a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the date of the Collector's award; (b) in other cases, within six weeks of the receipt of the notice from the Collector under Section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire. Section 12(2) of the Act provides that the Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

11. In the instant case, the learned Standing Counsel Smt. Rose Mary appearing for the District Collector failed to produce to list of attendance to buttress her stand in view of the proviso to sub-section (2) (a) of Section 18 of L.A. Act, 1894. However, the learned Standing Counsel produced Actual Payee Roll, which

implies that the award had been satisfied by the District Collector vide Cheque No. C-029479 dated 24.12.09. In other words, the review petitioners took notice of the Collector's award before 24.12.09 in compliance of Section 12, sub-section (2) of the Act. As both the learned Counsels for rival parties accepted 22.2.2010 the date of receipt of the reference application by the Collector, the review petitioners should have submitted reference application before the Collector within six weeks or forty-two days of the receipt of the notice from the Collector. But, the review petitioners took sixty days or more than forty-two days. Admittedly, the limitation provided under Section 18 of the Act is barred.

12. The second issue is, whether the reference application forwarded to the District Judge validates the reference. If the application is not made within time, the Collector will not have the power to make reference. In order to determine the limitation on his power, the Collector will have to decide whether application presented by the review petitioners is or is not within time and specify the conditions laid by Section 18 of the Act. The limitation time being barred, I do not have jurisdiction to entertain the review application.

13. In view of the discussion, the review petition is dismissed.

14. The review petition is disposed off.

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

Memo No. _____/ADJ(A)/2016 : Dated Aizawl, the 16th May, 2016
Copy to: -

1. Lalzarmawia & Ors. through Counsel Shri Lalsawirema, Advocate.
2. The District Collector, Kolasib District, Mizoram through Counsel Smt. Rose Mary, Standing Counsel.
3. The 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