

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

RFA No. 2 of 2013

The Manipur University, Canchipur represented by the Registrar, Manipur University, P.O. Canchipur, P.S. Singjamei, Imphal West District, Manipur.

...Appellant.

-Versus-

1. Shri Sorokhaibam Amuba Singh, aged about 78 years, S/O S. Thambou Singh of Langthabal Mantrikhong Mayai Leikai, P.O. Canchipur & P.S. Singjamei, Imphal West District, Manipur.

.... Principal Respondent

2. The State of Manipur represented by the Secretary (Revenue) Govt. of Manipur.
3. The Deputy Commissioner/Collector, Imphal West District, Manipur.

.... Proforma Respondents

RFA No. 1 of 2023

1. The State of Manipur represented by the Secretary (Revenue) Govt. of Manipur.
2. The Deputy Commissioner/Collector, Imphal West District, Manipur.

...Appellants.

-Versus-

1. Shri Sorokhaibam Amuba Singh, aged about 78 years, S/O S. Thambou Singh of Langthabal Mantrikhong Mayai Leikai, Imphal West District, Manipur.

.... Principal Respondent

2. The Manipur University, Canchipur represented by the Registrar, Manipur University, P.O. Canchipur, P.S. Singjamei, Imphal West District, Manipur.

.... Proforma Respondent

BEFORE

**HON'BLE THE CHIEF JUSTICE MR. SIDDHARTH MRIDUL
HON'BLE MRS. JUSTICE GOLMEI GAIPHULSHILLU KABUI**

For the Appellant in RFA No.2 of 2013	::	Mr. T. Rajendra, Sr. Advocate Mr. Sh. Bikash Sharma, Adv.
For the Respondents in RFA No. 2 of 2013	::	Mr. A. Jagjit, Advocate for R-1; Mr. M. Devananda, Addl. AG for R-2 and R-3
For the Appellant in RFA No.1 of 2023	::	Mr. M. Devananda, Addl. AG Mr. H. Tomclist, Adv.
For the Respondents in RFA No. 1 of 2023	::	Mr. A. Jagjit, Advocate for R-1; Mr. Deepak Prasad Sahu, Adv. for R-2
Date of Hearing and Judgment & Order	::	14.05.2024

JUDGMENT AND ORDER

(ORAL)

Siddharth Mridul (C.J.),

1. These two regular first appeals under Section 96 read with Order 41 Rule 1 of the Code of Civil Procedure assail the judgment and decree dated 31st December, 2012 passed by the Civil Judge, Senior Division No.I, Manipur East in Original Suit No. 34 of 2005 whereby it was decreed as follows :

"Suit valued at Rs. 51,96,182/-

This suit is coming on this the 31st day of December, 2012 for final disposal before Th. Saimon Singh, Civil Judge (Sr. Divn.) No. I, Manipur East in presence of M. Birbal Singh, Advocate, counsel for the plaintiff,. G. Narayani Devi, Asst. Govt. Advocate, counsel for the defendant Nos. 1 and 3 and RK Mohendra Singh, Advocate, counsel for the defendant No.2.

It is hereby ordered and decreed that the defendants jointly and/or severally doth pay a sum of Rs. 40,61,642/-(Rupees forty lakh sixty one thousand six hundred and forty two) only to the plaintiff as damages for illegal eviction and demolition of suit land and suit buildings with interest at the rate of 6 % p.a. from the date of decree till realization of the decreetal amount taking into consideration the mental agony/harassment and increase in costs of construction. The suit is decreed with costs to the extent as indicated above.

Given under my hand and seal of the court, this the 31st day of December, 2012.

Sd/-

(Th. Saimon Singh),

Civil Judge (Sr. Divn.) No. I, Manipur East

COST OF THE SUIT**For the plaintiff**

1. Stamp for court Fee	Rs. 10,000.00/-
2. Stamp for P.F.	Rs. 2.00
3. Stamp for D.F.	Rs. 55.00
4. Stamp for petition	Rs. 7.00
5. Vakalatnama	Rs. 1.00
6. Pleader Fee	Rs. 10,000.00/-

Total Rs. 20,065.00 /-.

(Rupees twenty thousand sixty five) only.

For the defendants

1. Stamp for petition	Rs. 5.00
2. Stamp for D.F.	Rs. 26.00
3. Vakalatnama	Rs. 1.00
4. Pleader Fee	Rs. 10,000.00

Total Rs. 10,032.00

(Rupees ten thousand thirty two only).

Certified that the decree is prepared in accordance with the order dated 31-12-2012.

Sd/-
(N. Indira Devi)
B.C.

to court of Civil Judge (Sr. Divn.) No.I, Manipur East.

Notified for three working days i.e., 2-1-2013, 3-1-2013 and 4-1-2013.

Sd/-
(N. Indira Devi)
B.C.

to court of Civil Judge (Sr. Divn.) No.I, Manipur East

NOTICE

Parties should apply as soon as possible for return of documents which they may wish to preserve as they will be destroyed at the time prescribed by law.

Sd/-
(Th. Saimon Singh),
Civil Judge (Sr. Divn.) No. I, Manipur East

SCHEDULE OF THE SUIT LAND

The two patta lands adjacent with one another covered by patta No. 66/144 (new) I.W.T. Under the C.S. Dag No. 223 and 226 and the land, covered by patta No. 66/149 (New) I.W.T. Comprising of the C.S. Dag No.

224, situate at village No. 66, Lanthabal Mantrikhong, Imphal West District, the same are bounded on the :-

North :-	paddy field of Sorokhaibam Naba Singh
South :-	Inter village Road leading to National and State Highway
East :-	Chandranadi River ; and
West:-	Paddy fields of Smt. Gotimayum (O) Thambal Devi and Sorokhaibam Rajen Singh.

SCHEDULE OF THE SUIT BUILDINGS

The 3 (three) residential houses, semi-pucca buildings having the area of (13m x 12m), (22m x 8m) and (13m x 5m x 8m x 5m), and 2 (two) out houses (Shangoi), i.e., (8m x 6m) each having the local cost of Rs 31,73,135/-.

SCHEDULE OF THE DAMAGED AND LOST PROPERTIES INCLUDING

HORTICULTURE PLANTS, CROPS, TREES ETC. & VALUES

Fishing ponds :-	Rs. 41,783/-.
Currency notes, furniture, electronics goods, utensils, books and jewelleries ornaments :-	Rs. 13, 80,600/
Horticulture plants :-	Rs. 1,27,414/-
Trees (Timber, category grith above 0.90 m upto 1.70 m). :-	Rs. 62,475/-
Post pole caterogy 0.30 m grith bamboo and others:-	Rs.1,10,775/-

Sd/-
(Th. Saimon Singh),
Civil Judge (Sr. Divn.) No. I, Manipur East"

2. The antecedent and attendant facts as are relevant for the determination of the present appeals are that –

- i) Dag. Nos. 223 and 226 both under Patta No. 114 (new)/11(old) of Village No. 66 Langthabal Mantrikhong and the homestead land under Patta No. 149 (new)/11(old) of Dag No. 224 of Village No. 66 Langthabal Mantrikhong originally stood in the revenue records in the name of S. Modon Singh and S. Thambou Singh;
- ii) the Government of Manipur acquired the said lands in 1975 for construction of the Jawaharlal Nehru University at Canchipur vide Notification No. 22/11/73- R dated 25/4/1975 which was published in the Manipur Gazette Extraordinary dated 5/6/1975 for general information under Section 4(1) of the Land Acquisition Act;
- iii) the Deputy Commissioner (C), Collector Land Acquisition, Manipur on 12th May, 1979 in Land Acquisition Case No. DC(C)/6/102/LA/JNU/73 declared that the lands of Village nos. 64,65 and 66 are required for construction of Jawaharlal Nehru University and value of homestead land was fixed at the rate of Rs. 4,478/- (Rupees four thousand four hundred

and seventy eight) only per acre and Rs. 4,053/- (Rupees four thousand and fifty three) only per acre for the agricultural lands.

3. Sorokhaibam Amuba Singh, S/O S. Thambou Singh asseverated that being dissatisfied with the rate of compensation awarded, he had made an objection to the then Deputy Commissioner (Central) on the 15th May, 1979 to make a reference to the Court under Section 18 of the Land Acquisition Act but the latter did not accede to the request.

4. Sorokhaibam Amuba Singh further claims that he made enquiries into the matter from time to time but the records of the Land Acquisition proceedings were destroyed in the fire incident that occurred at DC's office on the intervening night of 13th and 14th February, 1990.

5. Sorokhaibam Amuba Singh further avers that 14 years from the date of the said fire incident, the S.D.O./IW-II Wangoi at the instance of the State Government made an official notice being No. SDO/IW-II/3/88 dated 19th October, 2004 requiring the land owners whose lands were acquired by the Government to vacate from certain plots including Dag no. 226 which is a part of the suit land.

6. Mr. Sorokhaibam Amuba Singh further states that acting on the said Notification, 5 (five) buildings standing on the subject land were dismantled by the SDO/IW-II Wangoi on 22nd October, 2004.

7. Eventually, Sorokhaibam Amuba Singh instituted Original Suit No. 34 of 2005 in the Court of Civil Judge, Senior Division No. I, Manipur East at Lamphelpat, Imphal, Manipur for recovery of Rs. 51,96, 182/- (Rupees fifty one lakhs ninety six thousand one hundred and eighty two) only from the State of Manipur, the Manipur University, Canchipur and Deputy Commissioner, Manipur West District, Manipur.

8. The said suit was premised on Sorokhaibam Amuba Singh's claim that he had inherited the subject land under Dag Nos. 223 and 226 from his father S. Thambou Singh and under Dag No. 224 was already gifted to him by his paternal uncle Shri Sorokhaibam Modon Singh in the year 1969.

9. The suit was further premised on the claim that Sorokhaibam Amuba Singh had constructed 3 (three) residential houses being semi-pucca buildings having the area of (13m x 12m), (22m x 8m) and (13m x 5m x 8m x 5m), and 2 (two) out houses (Shangoi), i.e. (8m x 6m) on the acquired land.

10. The State Government (defendants No. 1 and 3 in the suit), the appellants herein, *inter alia*, contested the suit on the following grounds :

- a) For that, in view of the pleading/stand taken by the plaintiff in his plaint at para No 3 to 7, it reveals that the plaintiff is not satisfied with the assessment of compensation made by the collector of land acquisition in his award dated 12-5-1979. The plaintiff again stated the cause of action for his suit as arose on 12-5-1979 which is the date of signing and issuance of an award for the land acquisition proceedings of certain lands including the present suit land. In such nature of case, it is submitted that as per provisions laid down under section 18 and 30 of the Land Acquisition Act, 1894, only the Principal Civil Court of District such as District Court/ or District Judge can deal with the matter and any other subordinate Civil Court has no inherent jurisdiction to entertain such type of suit. Hence, the present judgment & decree dated 31-12-2012 passed in Original Suit No. 34 of 2005 has been passed without jurisdiction and that the same is liable to be set aside.
- b) For that, in view of the factual position as alleged by the plaintiff at his plaint from the middle part of para Nos. 10 to 13, it is submitted that the same is a distinct and separate cause of action which cannot be mixed up with the cause of action given in para Nos. 3 to 7 on the reasons that-
 - i) Land acquisition proceedings for acquiring certain lands of 4(four) villages, such as Village No. 64-Naorem Leikai, Village No. 65-Oinam Leikai, Village No. 66-Mantrikhong and Village No. 67-Longthabal Kunja including the present alleged suit land for construction of Jawaharlal Nehru University (now Manipur University) was started from the year 1975.

- ii) In the land acquisition proceedings, the interested persons in respect of the present suit lands consisting 3(three) plots of lands such as Dag Nos. 223, 226 and 224 of Village No.66-Mantrikhong, were Shri Sorokhaibam Thambou Singh (now deceased) and Sorokhaibam Modon Singh (now deceased) as they being the recorded pattadars at that relevant time. Plaintiff was not in the picture.
- iii) That, the land acquisition proceedings was done without any sort of objection from the side of the said interested persons and Award had been signed and issued on 12-5-1979 and thereafter the said certain lands including the present suit land which had been acquired under the said land acquisition proceeding was already delivered to the Manipur University (defendant No 2) by executing a memo of handing over and taking over on 21-1-1983. Since then, the Manipur University has become the rightful owner of the said acquired land inclusive of the present suit land. The name of the Manipur University has also been recorded in the relevant land record as owners/pattadars. Moreover, the compensation amount in respect of lands covered by Dag No. 223, 226 and another land covered by Dag No. 227 were received by the said interested persons. Therefore, the present alleged facts of eviction and demolition of the alleged suit buildings is a separate and distinct cause of action arising out of the act of trespass by the plaintiff over the acquired land of the Manipur University (the defendant No.2). It cannot be tried together with the earlier cause of action. Therefore, the suit was ought to have been dismissed as suffers from mixed causes of action which cannot be tried together. From this court also the present impugned judgment & decree dated 31-12-2012 is deserved to be interfered with by setting aside the same.

- c) For that, the subsequent cause of action arising out of eviction notice and eviction process was so arose from the act of trespassing over the land of the Manipur University by the plaintiff. As the plaintiff refused to vacate the land, the Manipur University (defendant No. 2) approached the Revenue Authority with a written application on 13-10-2004 for eviction of some persons including the plaintiff who are the trespassers/encroachers. Thereafter, the Sub-Divisional Officer (Wangoi) as a Revenue Court after registering a regular Eviction Case issued eviction notice on 19-10-2004 and evicted on 22-10-2004 under section 15 of the MLR & LR Act, 1960 by exercising the jurisdiction as a Revenue Court under the said MLR & LR Act. In the said MLR & LR Act, there are provisions of filing Appeal or Revisions provided by Section 93 and 95 of the said Act. And moreover there is also a provision where filing of Civil Suit is barred in respect of a matter arising under and provided for by this Act, and the said provision i.e. section 159 runs as follows :

“159. Jurisdiction of civil courts excluded:

No suit or other proceedings shall unless otherwise expressly provided for in this Act or in any other law for the time being in force, lie or be instituted in any civil court with respect to any matter arising under and provided for by this Act;

Provided that if in a dispute between parties a question of title is involved, a civil suit may be brought for the adjudication of such question.

(Provided further that the Civil Court shall have jurisdiction to decide any dispute to which the Government is not a party relating to any right or entry which is recorded in the record of rights)”

Hence, the suit is barred by section 9 of CPC read with section 159 of the MLR & LR Act, 1960. From this angle too the present

impugned judgment & order dated 31-12-2005 is required to be quashed and set aside.

- d) For that, as regards to the earlier cause of action as stated at ground No (a) it is submitted that the suit is hopelessly barred by limitation prescribed under section 18 of the Land Acquisition Act, 1894 itself, so also under Limitation Act.

And in respect of 2nd/ subsequent cause of action i.e. the allegation of eviction notice dated 19-10-2004 and the process of eviction and demolition of buildings done on 20-10-2004, it is to submit that the same is also barred by limitation as it is covered by Art.72 of the Limitation Act as the suit being filed on 25-10-2005. Hence, the trial court ought to have dismissed the suit as barred by limitation. From this angle too, the present impugned judgment & decree dated 31-12-2012 is deserved to be interfered with by setting aside the same.

- e) For that, the issue No. 1 has been decided to the effect that the plaintiff is not the owner of the suit land in favour of the defendants but again held that the plaintiff is the possessor of the suit land. This subsequent decision is a wrong decision in view of the clear nature of the issue which is a question as to whether the plaintiff is the absolute owner in possession of the suit land and the suit building And there is no any issue questioning as to whether the plaintiff has any possessory title over the suit land. The Ld. Civil Judge Senior Division No 1, Manipur East ought have decide that the plaintiff's possession is mere a trespasser having no right of any kind. The actual cause of action was arose due to the plaintiffs' act of illegal trespass over the suit land which is now belonged to the Manipur University (defendant No.2). From this also the Hon'ble High Court be pleased to interfere with the impugned judgment and decree dated 31-12-2005.

- f) For that, as regard to issue No 2 the Ld. Trial Court had decided wrongly by holding that the act of eviction and its consequent action is illegal. Rather the same has done by the Sub-Divisional Officer (Wangoi) by exercising its jurisdiction as Revenue Court, and that the Ld. Trial Court is neither a Revenue Appellate Court nor a writ court to hold that the eviction process is illegal. Moreover, this issue cannot be dealt with as barred by section 9 of CPC read with section 159 of the MLR & LR Act. From this count also, the present impugned judgment & decree is liable to be quashed and set aside.
- g) For that, presuming but not admitting that the suit is not barred by section 9 CPC read with section 159 of the MLR & LR Act and presuming and not admitting that the finding and decision of issue No.2 is correct, it is begged to submit that the decree for payment of compensation/damages by the defendants jointly and/or severally is quite wrong in the nature of the case that the land acquisition proceedings for the purpose of construction of Jawaharlal Nehru University (now Manipur University) had already been completed and came to an end with the signing and issuance of an Award dated 12-5-1979 and also with the delivery of possession of such acquired land to the Manipur University vide memo of handing over and taking over dated 21-1-83. The role of the Government in the land acquisition had come to an end on 21-1-1983. The subsequent cause of action as regards to eviction notice and eviction process was arose due to the illegal act of trespass of the plaintiff and that it is only between the plaintiff and the Manipur University (defendant No 2). Hence, the Government defendants (now appellants) are not liable to pay any compensation/damages to the plaintiff as the decree being wrongly passed. Therefore, the Hon'ble Court be pleased to decide the appeal by holding that the State Appellants (i.e. the

defendant Nos. 1 & 3 in the suit) are not liable to pay any damages/compensation to the plaintiff.

- h) For that, the issue No3 is also wrongly decided in favour of the plaintiff it ought to have been decided in favour of the defendant No.2 as the land had been correctly acquired under Land Acquisition Act, 1894 and the said acquired land had already been delivered on 21-1-1983 without any objection from any side, and also as the name of the Manipur University had already been mutated in the records of right under section 46 of MLR & LR Act. It is not necessary to give any notice to the plaintiff as he being a mere trespasser and that it is also not necessary to give any notice to the former recorded pattadar as they are no more owners after completion of land acquisition.
- i) For that, the remaining issues No.4 to 7 were also wrongly decided in view of the admitted factual position and also in view of the legal points raised in the above grounds And hence, the present impugned judgment and decree dated 21-12-2012 is required to be interfered with by setting aside the same.
- j) For that, the present judgment & decree dated 31-12-2012 which is herein impugned is otherwise bad in law.”

11. The Manipur University (defendant No. 2 in the suit), the appellant herein, *inter alia*, contested the suit on the following grounds :

“(i) For that, the Ld. Civil Judge, Senior Division No.1 passed the impugned judgment and decree dated 31/12/2012 (at Annexures

A/4 and A/5 respectively) by committing gross irregularities and by acting beyond the records available in the present case;

- (ii) For that, a plaintiff in a suit is to prove his case irrespective of the defence set up by the defendants. The plaintiff in the present suit never proved his case and hence the impugned judgment and decree dated 31/12/2012 (at Annexures A/4 and A/5 respectively) is liable to be set aside. The name of the plaintiff is not even recorded in the land records and the evidence produced by the plaintiff is never sufficient to pass the impugned judgment and decree ;
- (iii) For that, there is no evidence on record against the appellant (defendant no.2) so as to enable the Ld. Civil Judge, Senior Division No.I, Manipur East to pass the impugned judgment and decree against the appellant. Even if all the issues framed in the suit are decided in favour of the plaintiff, a decree against the present appellant cannot be passed in the facts and circumstances of the case ;
- (iv) For that, the suit land along with others lands have been acquisitioned for the construction of Jawaharlal Nehru University (now Manipur University) and handed over the possession to the Manipur University on 21/1/1983. Further, due compensation amount for the said acquisition has already been deposited by the appellant to the concerned authorities. Therefore, passing of the impugned judgment and decree against the Appellant is not permissible in law and is liable to be set aside ;
- (v) For that, from the documents produced by the plaintiff himself i.e. Exhibit A/2 and Exhibit A/4, it is clear that the suit lands are now the absolute property of the appellant/defendant no.2 in pursuance of appropriate land acquisition proceedings. Therefore, the

allegation of the plaintiff/Principal Respondent for giving land revenue of the suit land till 2004 does not help him in any manner :

(vi) For that, the appellant being the owner of the suit lands filed an application being S.D.O./IW-II/REV/3/ 88 to evict the unauthorised occupants within the land of the Manipur University to the S.D.O./IW-II Wangoi. The S.D.O./IW-II Wangoi Issued Notice dated 19th October 2004 to the encroachers/unauthorised occupants for vacating the same within 48 hours. The said Notice dated 19th October, 2004 was also widely circulated in a very popular local daily namely "**The Sangai Express**" dated 20th October, 2004 and eviction proceedings was carried out by the S.D.O./ IW-II Wangoi on 22/10/2004 by complying the provisions of law. In such circumstances the Ld. Civil Judge, Senior Division No.I, Manipur East committed an error in law in passing the impugned judgment and decree and also by making the present appellant liable jointly and severally with the defendant nos. 1 and 3.

(vii) For that, the Ld. Civil Judge, Senior Division No.I, Manipur East while deciding issue no.1 held that the plaintiff is not the owner of the suit land but he is in possession of the suit land and the suit building. When there is a clear finding that the plaintiff is not the owner of the suit land, the issue no.2 cannot be decided in his favour as he was evicted by following the due process of law. Section 15 of the Manipur Land Revenue and Land Reforms Act authorises the competent authority to summarily evict an authorised occupant and any building of other construction or anything on such land, if not removed within such reasonable time shall be liable to be forfeited to the Government and to be disposed of in such manner as the competent authority may direct. The Ld. Civil Judge, Senior

Division No.I, Manipur East however by following a case not pleaded by the parties held that the eviction of the plaintiff was done by the defendant nos. 1 and 3 illegally by referring to the provision of The public premises (Eviction of Unauthorised Occupants) Act, 1971 ;

- (viii) For that, even if it is presumed that the issue no.2 is rightly decided by the Ld. Civil Judge, Senior Division No.I, Manipur East holding that the plaintiff has been illegally evicted by the defendant nos.1 and 3, passing of the impugned judgment and decree against the appellant is not called for ;
- (ix) For that, the Ld. Civil Judge, Senior Division No.I, Manipur East relied on materials which are not proved in the suit and also not before him in passing the impugned judgment and decree. The plaintiff in his evidence, never prove that he has suffered loss of the decretal amount in the said eviction proceedings. Further P.W. Nos. 1, 2 and 3 are the plaintiff himself and his family members and the P.W. No.4 who is alleged to be a localite of the plaintiff stated only to the extent of demolition on 22/10/2004. In such circumstances, there is no material for the Ld. Civil Judge, Senior Division No.I, Manipur East for ordering and decreeing a sum of Rs, 40,61,642/- (Rupees forty lakhs sixty one thousand six hundred and forty two) only in favour of the plaintiff and the same is based on mere hypothesis of the Ld. Trial Court ;
- (x) For that, the Ld. Civil Judge, Senior Division No.I, Manipur East decided the issue No.3 against the appellant that the suit land has been recorded in the name of the appellant without issuing notice to the recorded pattadars/persons and the recording of name of the appellant is not in compliance with the provision of Section 46 of the MLR & LR Act. The Ld. Civil Judge, Senior

Division No.I, Manipur East while deciding the said issue failed to notice that under the Land Acquisition Act after the making of the award and possession thereof by the appellant, the said lands absolutely vest to the appellant free from all encumbrances. Therefore, the Ld. Civil Judge, Senior Division No.I, Manipur East decided the issue No.3 erroneously and by committing an error in law.

- (xi) For that, the Ld. Civil Judge, Senior Division No.I, Manipur East has clearly held in deciding issue No.4 that the cause of action arose on 12th May, 1979 and the suit as it relates to the compensation of the suit land is barred by limitation. Therefore, the subsequent finding that the suit as far it relates to damages for illegal eviction is filed within limitation is contrary to its own finding and is not tenable in law as suit for compensation is also to be filed within one year. For that, the Ld. Civil Judge, Senior Division No.I, Manipur East also adopted a procedure alien to the present suit by fixing an amount of Rs. 40,61,642/- (Rupees forty lakhs sixty one thousand six hundred and forty two) only in favour of the plaintiff. The Ld. Civil Judge, Senior Division No.I, Manipur East also decided issue Nos. 5, 6 and 7 erroneously. The decision of issue No.6 is contradictory to the decision in Issue No.4 and further that the awarding of Rs. 40,61,642/-(Rupees forty lakhs sixty one thousand six hundred and forty two) only in favour of the plaintiff is arrived at independently by the Ld. Civil Judge, Senior Division No.I, Manipur East and also erroneously. For passing decree of compensation, the plaintiff has to prove his case with all the admissible evidence and with all the details which the present plaintiff has failed to do ;

- (xiii) For that, from the documents at Exhibit B/2 and B/5 it is very clear that the suit land now belongs to the defendant no.2/appellant. Further, the document at Exhibit P/2 also shows that the appellant/defendant no.2 has made the full compensation amount for the said acquisition proceedings. In such circumstances, the judgment and decree dated 31/12/2012 against the appellant is not called for.
- (xiv) For that, the plaintiff also failed to comply the mandatory provisions of law in filing the present suit. Exhibit A/13 cannot be deemed to be a notice under Section 80 of C.P.C. to the defendants of the suit. Hence, passing of the impugned judgment and decree ' is not called for.
- (xv) For that, there are other sufficient grounds for allowing the present appeal by setting aside the impugned judgment and decree.
- (xvi) For that, the Ld. Civil Judge, Senior Division No.I, Manipur East is passing the impugned judgment and , decree failed to notice the SDO, IW-II Wangoi is not made a party in the suit. Therefore the suit also suffers from non joinder of necessary parties.”

12. The Court of Civil Judge, Senior Division No. I, Manipur East vide impugned judgment and decree dated 31st December, 2012 as aforementioned decreed the suit directing the appellants before this Court to jointly and/or severally doth pay a sum of Rs. 40,61,642/-(Rupees forty lakh sixty one thousand six hundred and forty two) only.

13. Aggrieved by the said judgment and decree, the State of Manipur had instituted the present appeals.

14. Having heard the learned counsel appearing on behalf of the parties and perused the materials on the record, it is axiomatic that under the provision of Section 18 of the Land Acquisition Act, 1894 at the relevant time, the statutory records available to Sorokhaibam Amuba Singh as a person interested not having accepted the award was to file written application to the Collector, required the latter to refer the matter for determination by the Court of competent jurisdiction in relation to his objections pertaining either to the measurement or land; or, amount of compensation; or the persons to whom it was payable; or the apportionment of the compensation among the persons interested.

15. Admittedly, there is no record of any such reference under Section 18 of the Land Acquisition Act, 1894 having been made or determined by the Court of competent jurisdiction in accordance with law.

16. In view of the foregoing, learned counsel, learned counsel appearing on behalf of the legal representative of Sorokhaibam Amuba Singh seek liberty of this Court to approach by way of written application to the concerned Collector under the

provision of Section 18 of the said Act to require the latter to refer the matter to the Court of competent jurisdiction in relation to the claims agitated by Sorokhaibam Amuba Singh in the subject suit in relation to the acquired land.

17. Learned counsel appearing on behalf of the appellants does not oppose to the leave prayed for on behalf of the LRs of Sorokhaibam Amuba Singh in accordance with law.

18. In view of the foregoing discussion, the leave prayed for by the legal representatives of Sorokhaibam Amuba Singh is granted and the judgment and decree dated 31st December, 2012 is set aside.

19. Needless to state that the legal representatives of Sorokhaibam Amuba Singh would be at liberty to seek exclusion of time taken by them in the proceedings bonafide instituted by him before the Civil Judge, Senior Division No.I, Manipur East, Manipur and the same shall be considered appropriately by the Court of competent jurisdiction in accordance with law and particularly, in terms of the provisions of Section 14 of the Limitation Act, 1963.

20. Before we part with the order, we also consider it appropriate to permit the LRs of Sorokhaibam Amuba Singh to approach the competent authority in accordance with law for

consideration of their request for allotment of alternative land in accordance with law.

21. These two regular first appeals are disposed of accordingly.

22. No further relief is prayed for.

JUDGE

CHIEF JUSTICE

FR/NFR

Sushil