

GAHC030005612023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : CRP/10/2023

F.Lalrinnggheta
S/o F.Chalthuama (L), South Chawngtui, Hnahthial District, Mizoram

VERSUS

State of Mizoram and 6 Ors.
r/b the Secretary to the Govt. of Mizoram, Public works Department

2:The Engineer-in-Chief
Public Workds Department
Govt. of Mizoram
Tuikhuahtlang
Aizawl

3:The Chief Engineer (Roads)
Public Works Department
Govt. of Mizoram
Tuikhuahtlang
Aizawl

4:The Executive Engioneer
Public Works Department
Serchhip Division
Serchhip District
Mizoram

5:The Sub-Divisional Officer
North Vanlaiphai Sub-Division
Public works Department
North Vanlaiphai
Serchhip District
Mizoram

6:Sh Lalparmawia

Contractor (Construction of S.Chawngtui- North Vanlaiphai (0.00 to 14.800 Kmp
under NEDP) R/o Hlimen
Aizawl District
Mizoram Ph No.8415945323

7:The Deputy Commissioner / District Collector
Hnahthial District
Hnahthial
Mizora

Advocate for the Petitioner : Mr Lalfakawma

Advocate for the Respondent : Mrs. Linda L Fambawl for R1-R5 & R7

B E F O R E
HON'BLE MR. JUSTICE NELSON SAILO

15.07.2024

Heard Ms. Annie Lalenkawli, learned counsel for the petitioner and Mr. Samuel Vanlalhriata Chhangte, learned Addl. Advocate General, Mizoram for the respondent Nos. 1, 2, 5 & 7. None appears for the respondent No. 6. It is seen that the petitioner has served notice to the respondent No. 6 by way of dasti as permitted by this Court and despite the same no one appeared when the matter was listed on 31.05.2024. Similarly, no one appears for the respondent No. 6 today. Having regard to the nature of the case projected by the petitioner, the petition is taken up for disposal at this stage.

[2.] By filing the instant Revision Petition under Section 115 of the Code of Civil Procedure, 1908 (CPC) read with Section 227 of the Constitution of India, the petitioner prays for setting aside the Order dated 21.08.2023 passed by the Court

of Senior Civil Judge, Lunglei in CMA No. 101/2023 arising out of Civil Suit No. 14/2022.

[3.] Ms. Annie Lalenkawli, learned counsel for the petitioner submits that the petitioner as plaintiff filed the Civil Suit before the learned Trial Court seeking suitable compensation for illegal utilization of his land and for destroying the land by dumping earth spoils and causing damages of the crops of the petitioner. At the time of filing the civil suit, the land Pass was not registered in his name but in the name of his late father. Subsequently, upon being granted Heirship Certificate for the land Pass, the petitioner applied for change of name in the land Pass before the Revenue authorities and accordingly, the same was allowed. By filing the CMA No. 101/2023, the petitioner sought permission of the learned Trial Court to incorporate the same in the civil suit, which however was not allowed by the Trial Court.

[4.] The learned counsel submits that the incorporation of the land Pass issued in the name of the petitioner will not change the nature and character of the claim made by the petitioner through the civil suit. Therefore, the same ought to have been allowed by the learned Trial Court. She submits that in passing the impugned Order dated 21.08.2023, the learned Trial Court has not given any reason for rejecting the application. She, therefore, submits that the impugned order should be set aside and the petitioner be allowed to submit the land Pass

issued in his name in support of his claim made in the civil suit.

[5.] Mr. Samuel Vanlalhriata Chhangte, learned Addl. Advocate General also submits that from a perusal of the impugned order, it appears that the learned Trial Court has not assigned any reason for rejecting the Civil Misc. Application. He, therefore, submits that under the circumstance, Court may consider the same and pass an appropriate order as deem fit and proper.

[6.] Upon hearing the learned counsels for the parties and upon perusal of the materials available on record, this Court is of the view that since the learned Trial Court, in passing the Order dated 21.08.2023 rejecting the CMA No. 101/2023, has failed to assign reasons for the same, the impugned Order dated 21.08.2023 cannot be sustained. Accordingly, the impugned order is hereby set aside.

[7.] The matter stands remanded back to the learned Trial Court for fresh consideration of CMA No. 101/2023 in accordance with law.

[8.] With the above observation and direction, the Revision Petition stands disposed of as allowed.

JUDGE

Comparing Assistant