GAHC030002162025

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

Case No. : RSA/3/2025

Sh. C. Lalnunpuia
S/o Vanlalthlana, R/o Govt. Complex, Aizawl

VERSUS

The State of Mizoram and 5 Ors
Represented by the Chief Secretary, Govt. of Mizoram, Aizawl, Mizoram 2:The Secretary to the Government of Mizoram

3:The Director

4:The Settlement Officer

5:Sh. Samuel Lalrohlua

6:Smt. Rinmawi

Advocate for the Petitioner : Mr. L.H. Lianhrima, Sr.Adv.

Advocate for the Respondent : Addl. AG/GA, Mizoram for R1-R4

BEFORE
HON'BLE MR. JUSTICE NELSON SAILO

Date of judgment	: 10.09.2026
Whether the pronouncement is of the operative part of the judgment ?	: NA.
Whether the full judgment has been pronounced?	: Yes

J U D G M E N T & O R D E R (Oral)

Heard Mr. L.H. Lianhrima, learned Senior Counsel assisted by Ms. Lalropari, learned counsel appearing for the appellant. Also heard Mr. B. Lalramenga, learned counsel appearing for the respondent Nos. 5 and Ms. Vanneihsiami, learned Govt. Advocate appearing for the respondent Nos. 1 to 4.

2. This is a Regular Second Appeal filed by the appellant against the Judgment & Order dated 08.12.2023 passed by the Court of District Judge, Aizawl in RFA No. 7/2022 arising out of Civil Suit No. 77/2018 and also against the Order dated 07.03.2022 passed in Civil Suit No. 77/2018 itself. This Court vide Order dated 23.07.2026 formulated the following substantial questions of law:-

(i) Whether the Learned Senior Civil Judge committed gross error in passing the impugned Order dated 07.03.2022 under Section 151 of

the CPC in Civil Suit No. 77/2018 without any jurisdiction.

(ii) Whether the Learned Lower Appellate Court committed gross error in dismissing the appeal without examining whether the impugned Order dated 07.03.2022 was passed within or beyond its jurisdiction.

3. The learned Senior Counsel by referring to the impugned Order dated 07.03.2022 passed by the learned Trial Court in the Civil Suit submits that the plaintiff during the proceedings of the Civil Suit filed an application under Section 151 of the Code of Civil Procedure (CPC) claiming location transfer of his Land Settlement Certificate (LSC) from Phunchawng to Zonuam as according to him, he had found an empty plot of land at Zonuam. The dispute otherwise was between the plaintiff and the Defendant No. 5, which was to the effect that both their respective allotments of land to the LSC had overlapped. Therefore, the plaintiff perhaps by way of an alternative means to solve the problem, sought the transfer of the location of his LSC from Phunchawng to Zonuam since according to him, there was an empty plot of land in Zonuam. The learned Senior Counsel submits that in passing such an order on 07.03.2022, no notice was issued to the parties arrayed in the Suit and that the learned Trial Court upon perusing the application filed under Section 151 CPC simply allowed transfer of the location of the LSC by directing the defendant authorities to do the needful. The learned Senior Counsel submits that there is no such provision

in the Mizoram (Land Revenue) Act, 2013, (Act of 2013) for location transfer of land. He submits that allotment of land in fact can only be done in terms of Section 16 of the Act of 2013 and that the Civil Court is not empowered to direct for such an allotment in the manner it was done. In this connection, the learned Senior Counsel has relied upon the case of *Durgesh Sharma Vs. Jayshree*, reported in *(2008) 9 SCC 648*.

4. The learned Senior Counsel further submits that the impugned Order passed by the First Appellate Court is also not sustainable in view of the fact that the learned First Appellate Court failed to consider the legality or otherwise of the order dated 07.03.2022 passed by the learned Trial Court in exercise of the powers conferred under Section 151 CPC. The First Appellate Court was also aware of the fact that the claim of the appellant was that he had looked after the plot of land at Zonuam by growing various crops and trees and that he has applied for House Pass for the said plot of land but despite the same, the Court decided to dismiss the appeal filed by the appellant with an observation that the appellant may file a fresh application before the Civil Court for declaration of his rights and entitlement over the transferred land, if so advised. The learned Senior Counsel thus submits that impugned Judgment & Order of the learned Civil Court as well as the First Appellate Court should be set aside.

5. Per contra, Mr. B. Lalramenga, learned counsel for the respondent No. 5 submits that the appellant has not taken the ground taken in the present Second Appeal before the First Appellate Court and therefore, there cannot be any substantial questions of law involved in the present appeal. He also submits that the appellant not being a party in the Civil Suit also does not have any *locus standi* to file the First Appellate Court as well as the present Second Appeal. He therefore submits that since there are no substantial questions of law involved for consideration for this Court, the appeal may be dismissed.

6. Ms. Vanneihsiami, learned Govt. Advocate appearing for the respondent Nos. 1 to 4 submits that the learned Trial Court apparently exceeded its jurisdiction in issuing a direction for location of transfer of LSC without there being any materials brought on record to establish that there was indeed a vacant land at Zonuam, where the plaintiff would be adjusted. She submits that at any rate, there is no specific provision under the Act of 2013 providing for location transfer of land in the manner in which it was directed by the learned Trial Court.

7. I have heard the submission made by the learned counsels for the rival parties and I have perused the materials available on record. For brevity, both the substantial questions of law are taken up together for consideration.

8. This Court vide Order dated 08.09.2026 has requisitioned the Trial Court records as well as the First Appellate Court records. From a perusal of the Trial Court records, it can be seen that an application was filed under Section 151 CPC by the plaintiff and as per the affidavit appended to the said application, the date of swearing the affidavit is 03.03.2022. There is no other indication as regards the date of filing of the said application apart from the date given in the affidavit. The learned Trial Court on 07.03.2022 considered the application and disposed of the same by directing location transfer of the plaintiff's land located at Phunchawng to the vacant land located at New Capital Complex, Zonuam, which was found out by the plaintiff. From a perusal of the said Order, it nowhere indicates that there were materials to establish the fact that there was a vacant land at Zonuam, where the plaintiff could be given the land in lieu of his land in Phunchawng. In other words, it was basically on the submission made by the plaintiff to the said application filed under Section 151 CPC that the order was passed by the Trial Court. Although the learned Trial Court has indicated that the submissions have been heard and documents which were available on record have been perused and the learned Assistant Public Prosecutor was also heard, the said application does not have any documents enclosed except for the affidavit dated 03.03.2022. Besides this, there was no requirement to hear the Asst. Public Prosecutor in a Civil Suit.

9. The inherent power of the court under Section 151 CPC has to be exercised sparingly and only in such circumstance where there are no expressed provisions provided in the CPC and also for ensuring substantial justice. The Apex Court in *Durgesh Sharma* (supra), in the given facts of that case held that powers under Section 151 CPC cannot be exercised in contravention or in conflict of or ignoring expressed and specific provisions of law. In the present case, the Act of 2013 amongst others provides for the manner in which land can be allotted and also the authorities who are empowered to consider and make such allotment. It therefore appears that the learned Trial Court has only exceeded its jurisdiction in passing the impugned Order dated 07.03.2025.

10. The stand taken by the appellant before the First Appellate Court was that the Order of the Trial Court was not maintainable on the ground that the claimed vacant land at Zonuam was not a vacant land as it was applied for by the appellant before the Revenue authorities. According to the appellant, the learned Trial Court ought to have called for a spot verification to ascertain whether the land was a vacant land or not. Further, no opportunity was granted to anyone who may be interested in the said land, including the appellant and therefore, since the impugned Order suffered from inherent defects and was palpably wrong on the face of it, the same should therefore be set aside.

11. The learned counsel for the respondent No. 5 has taken the stand that the appellant had failed to raise objection with regard to the Order for location transfer on the ground that there was no such provision in the Act of 2013 before the First Appellate Court and therefore, such ground could not have been taken by the appellant in the present appeal. It is however seen that from the grounds taken by the appellant, it was incumbent on the part of the First Appellate Court to see as to whether the Order passed by the Trial Court was sustainable in law considering the manner in which it was passed.

12. A perusal of Ground No. 3 taken by the appellant before the First Appellate Court shows that there was enough scope for the First Appellate Court to examine the legality or otherwise of the Order passed by the Trial Court either on facts or in law. Therefore, having noticed that such consideration was not made by the learned First Appellate Court, this Court finds that the impugned First Appellate Court's Order is also not sustainable.

13. In the result, both the impugned Order dated 07.03.2022 as well as the Order dated 08.12.2023 of the First Appellate Court are found to be not sustainable and they are accordingly set aside. The substantial questions of law are accordingly answered.

14. It is seen that Civil Suit is still pending final consideration by the Trial

Court. Therefore, the same shall proceed and the learned Trial Court shall bring the same to its logical conclusion in accordance with law. Let the Trial Court records and the First Appellate Court records be returned back.

15. Before parting with the records, it is also observed herein that the parties interested in the plot of land said to be available at Zonuam may apply for the same if not already applied for, including the appellant as well as the respondent No. 5 and the State respondents would be at liberty to decide the same in accordance with law.

16. Appeal is accordingly disposed of.

JUDGE

Comparing Assistant