

**IN THE GAUHATI HIGH COURT**  
(THE HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)  
**AIZWAL BENCH**

***RFA No. 6 of 2013***  
*with*  
**C.M. Appeal No. 29 of 2013**

1. The State of Mizoram represented by  
the Chief Secretary to the Government of Mizoram, Aizawl.
2. The Principal Chief Conservator of Forests-  
cum- Principal Secretary to the Govt. of Mizoram,  
Environment & Forests Dept, Mizoram,
3. The Chief Conservator of Forests,  
Environment & Forests Dept, Mizoram, Aizawl.
4. The Divisional Forest Officer,  
N. Vanlaiphai Forest Division  
N. Vanlaiphai Mizoram.

**.....Appellants**

*-Versus-*

Shri K. Neihthawma  
S/o Thangzinga  
R/o. N. Vanlaiphai, Serchhip District, Mizoram

**.....Respondent**

**B E F O R E**  
THE HON'BLE MR.JUSTICE P.K. SAIKIA

For the Appellant	....	Mr. B. Lalramenga,
For the respondent	....	Mr. C. Lalramzauva, Sr. Adv. Mr. A.R. Malhotra, Mr. K. Laldiniana, Mr. Zoramchhana, Advs.
Date of hearing	....	<b>12.06.2013</b>
&		
Date of judgment	....	<b>12.06.2013</b>

## J U D G M E N T A N D O R D E R (O r a l)

1. Heard Mr. B. Lalramenga, learned counsel for the appellant. Also heard Mr. A.R. Malhotra, learned counsel appearing for the sole respondent No.1.

2. This appeal is directed against the judgment and order dated 1.03.2011 passed by the Senior Civil Judge-I, Aizawl in Civil Suit No. 32/2007 whereby the learned trial court, amongst other things, granted a decree in favor of the plaintiff requiring the defendants therein, more particularly defendant Nos. 3 and 4, to deliver the plaintiff the vacant possession of the land, covered by Periodic Patta No. 245 of 1978 and also to pay the plaintiff an amount to the tune of Rs. 1,93, 62, 400/- with interest thereon as being compensation etc. for their alleged illegal occupation of land of the plaintiff.

3. The brief facts necessary for disposal of the present appeal are that the plaintiff claims himself to be the rightful owner of the land, measuring an area of about 53.512 acres, covered by P. Patta No. 245 of 1978, located at Tuilukam, N. Vanlaiphai, Mizoram. The aforesaid land was used by the plaintiff for cultivating different kinds of plants/crops.

4. However, the Environment & Forest Department, Govt. of Mizoram had most illegally occupied such land of the plaintiff by constructing their staff quarters thereon, and that too, without same being acquired in accordance with law. What is worse is that they did not even find it necessary to obtain previous permission from the plaintiff before undertaking the construction work on his land.

5. Being aggrieved by such conduct of the State authorities, Sri. K. Neihthawma, the plaintiff (who is sole respondent in the present appeal) lodged complaint before the concerned authorities intimating the illegalities committed by the State authorities, more particularly, the Forest department, Govt. of Mizoram. The authority, so approached, namely, the Land Revenue & Settlement department, Govt. of Mizoram directed the then Deputy Director of the Land Revenue & Settlement, Govt. of Mizoram to conduct a spot verification.

6. Being so required, the Deputy Director of Land Revenue & Settlement department, conducted a spot verification and the report, prepared in that connection was submitted to the Director of Land Revenue & Settlement department. On the receipt of such report, the Director of the Land Revenue & Settlement department ordered the Forest department, Govt. of Mizoram to demolish the staff quarters within 30 days from the date of such order.

7. However, instead of complying with such an order, the Forest department continues to occupy the land of the plaintiff, and that too, without paying any rental/compensation etc. for such illegal occupation of land in question. Having found no other way out, the plaintiff took recourse to the law by the way of filling aforesaid suit in the court of Senior Civil Judge, Aizawl seeking reliefs as aforesaid.

8. It may be stated that in the aforesaid Civil Suit, the State of Mizoram through Chief Secretary to the Govt. of Mizoram, the Principal Chief Conservation of Forest, the Chief Conservator of Forest, the Divisional Forest Officer N. Vanlaiphai, Mizoram, the Director of Land Revenue & Settlement, the Assistant Settlement Officer, Land Revenue & Settlement, the Assistant

Settlement Officer-II, Land Revenue & Settlement, Serchhip District, Mizoram have been arraigned as respondent No. 1 to 7 respectively.

9. It has been stated that the State respondents, viz respondent No.1 and 2 entered appearance yet they did not file any written statement contesting the claim made by the plaintiff (who is the respondent in the present appeal) in Civil Suit No. 32/2007. On the other hand, the State respondents, namely, Nos. 3 and 4 who were the most important players in the aforesaid proceeding and against whom the plaintiff had sought reliefs were never served notice.

10. Since the respondent Nos.3 and 4 were never served with summons, they could not appear before the court to contest the proceeding for which the matter was heard and decided ex-parte against those two State respondents. Since the matter was not contested by the State respondents, the suit was decreed as prayed for by the plaintiff in Civil Suit No. 32/2007.

11. For ready reference, the relevant part of the judgment, granting reliefs is reproduced below:-

“Therefore, the defendants-Environment & Forest Department are hereby directed to pay Rs. 1,86,62,400/- (Rupee One core eight six lakhs sixty two thousand four hundred) as rental charges for the whole 27 years, to the plaintiff with interest at a rate of 12% per annum computing the same with effect from 1980 till payment of the said Rs. 1,86,62,400/- to the plaintiff. Payment of the said Rs. 1,86,62,400/- with interest specified shall be made by the defendants-Environment & Forest Department within 3(three) months from the date of this judgment. Besides, the defendants-Environment & Forest Department are also directed to hand over/return to the plaintiffs, within three months from the date of this judgment, the vacant and full possession of the plaintiffs land which they have been illegally occupying and also demolish all the buildings, erections and any constructions from the plaintiffs land illegally occupied by them and also to remove the said erections and any of their articles/materials by the defendants-Environment & Forest Department from the plaintiff's land which they illegally occupied within the specified time mentioned above”.

12. In order to show that they were not served with summons in the aforesaid proceeding, my attention has been drawn to the order dated 18.02.2008, 19.02.2008, 18.03.2008, 22.09.2008, 04.05.2009 and also 19.06.2009 passed in Civil Suit No. 32/2007. The learned counsel for the appellants, therefore, submits that in the interest of justice, the judgment of the trial court, which is impugned in this appeal, needs to be set aside and case needs to be remanded to the trial court for disposal of the same on merit after giving the appellants herein an opportunity of submitting their written statement.

13. On hearing the learned counsel for the appellants/defendants and also learned counsel appearing for the respondent/plaintiff, I am of the opinion that there are sufficient grounds to presume that the appellants/State defendants, namely defendant No. 3 and 4, were never summoned to participate in the proceeding which was registered as Civil Suit No. 32/2007 which ultimately led the trial court to hear and dispose of the proceeding as ex-parte and which, in fact, caused huge injustice to the defendant No. 3 and 4.

14. In above view of the matter, I am in agreement with the learned counsel for the appellants that the judgment, impugned, needs to be set aside and the trial court needs to be directed to dispose of the matter in Civil Suit No. 32/2007 on merit after hearing both the parties, particularly plaintiffs as well as the defendant No.3 and 4 in the aforesaid proceeding.

15. Resultantly, the judgment of the trial court which is impugned in this proceeding is set aside and the case is remanded to the trial court with direction to dispose of the same on merit in accordance with law as indicated above.

16. The appellants are also directed to file written statement in the proceeding aforesaid as early as possible but in no case beyond 2(two) months from today. The plaintiff (the sole respondent herein) may also be allowed to file additional documents, if any, if he so desires.

17. Let LCR with a copy of the judgment be returned to the learned trial court forth with.

**JUDGE**

*Kevi*