

IN THE GAUHATI HIGH COURT  
( THE HIGH COURT OF ASSAM, NAGALAND,  
MEGHALAYA, MANIPUR TRIPURA, MIZORAM AND  
ARUNACHAL PRADESH )

AIZAWL BENCH : AIZAWL.

WRIT PETITION (C) No. 91 of 2011

Sh. Moses Vanlalhlana  
S/o Thangtinkhuma(L)  
R/o Upper Khatla,  
Aizawl, Mizoram ... Petitioner

-Versus-

1. The State of Mizoram (represented by the Secretary to the Govt. of Mizoram, Sericulture Department, Aizawl.
  2. The Secretary to the Govt. of Mizoram, Revenue Department, Govt. of Mizoram, Aizawl.
  3. The Director, Land Revenue & Settlement Department, Govt. of Mizoram, Aizawl.
  4. The Director, Sericulture Department, Govt. Mizoram, Aizawl.
  5. The Deputy Commissioner & Revenue Commissioner, Serchhip District, Serchhip, Mizoram.
- ..... Respondents

B E F O R E  
THE HON'BLE MR.JUSTICE S.R. SEN

For the petitioner... Mr. C.Lalramzauva,Sr.Adv  
Mr.A.R.Malhotra,  
Mr.Joseph Lalfakawma  
Mr.K.Laldinliana  
Mr.Zoramchhana  
Ms.Lalramsangzuali

MS. Venus H.Zomuankimi  
Mr.T.J.Lalnuntluanga

For the respondents ... Mr. A.K.Rokhum,  
Addl. Advocate General, Mizoram.  
Date of hearing &  
Judgment ... 24.07.2012

### J U D G M E N T   A N D   O R D E R (ORAL)

Instant writ petition directed against the impugned letter No.F.150011/1/98-DC(SRCP)/13 dt.17.9.2010 issued by the respondent No.5 and letter No.J.12012/7/1996-REV dt.8.10.2010 issued by the respondent No.2.

2. The brief facts of the case is that the petitioner lands was in occupation by the Sericulture Department, Govt. of Mizoram with effect from January, 1988 till June 2010. For such occupation no rent was paid to the petitioner and the petitioner being aggrieved had move the petition both before the Single Bench as well as Division Bench of this Court.

3. Hon'ble Division Bench of this High Court vide Judgment and Order dated 28.4.2010 in Writ Appeal No. 12 of 2007 was pleased to direct the Govt. either to acquire the land or to vacate the land and to give the compensation or rent fees within 6 (six) months from the date of the judgment of the Division

Bench. Govt. decided to vacate the land vide notification dated 1.7.2010 and thereafter Sericulture Department, Govt. of Mizoram had made a request to Deputy Commissioner, Serchhip District to assess the rent accordingly, Deputy Commissioner, Serchhip assessed the rent and determined all the rent as Rs.28,52,965 for the period of 22 and ½ years. Being aggrieved by the said letters referred to above, the petitioner approached this court once again for necessary direction to assess the rent as per law.

4. Learned counsel Mr.A.R.Malhotra, for and on behalf of the petitioner submitted that in this instant case Deputy Commissioner, Serchhip District has assessed the rent without applying any mind or without taking into consideration of Mizoram Urban Areas Rent Control Act, 1974(in short MUARCA, 1974).

5. Learned counsel also further submitted that the land premises in question is very much within the urban area and determination of rent to be according to Mizoram Urban Areas Rent Control Act, 1974; and Deputy Commissioner cannot apply his own method in this matter.

6. Learned counsel Mr.A.R.Malhotra also further argued that as per Mizoram Urban Areas Rent Control Act, 1974 that, rent increase always 50 % in every 5 years, but in the instant case

the rent access remain stagnant from 1988 till June 2010 and in support of his submissions he has also produced a letter dated 17<sup>th</sup> August, 2011 addressed to Deputy Commissioner & LA Collector, Aizawl District, Aizawl by Deputy Commandant, SO 2(Estate) and annexing schedule which shows that how the assessment and determination was done in case of other land owner and Mr.A.R.Malhotra, submitted that since the assessment and determination of the rent was not in accordance with law necessary direction was given.

7. On the other hand, learned Addl. Advocate General, Mr. A.K.Rokhum submitted on behalf of the Govt that, the assessment was done correctly and there is no provision in Mizoram Urban Areas Rent Control Act, 1974 for increase of 50% every 5 years.

8. Upon hearing submissions made by the learned counsel for the parties at the bar, I am of the considered view that while assessing the rent no flat rate can be applied and in the list of others as appeared from the letter dated 17<sup>th</sup> August, 2011 referred to above, it appears that 50% rent increased than why it should not be apply in case of petitioner as land in question is in urban area. Therefore, Govt. is directed to re-assess the rent applying the same formula which has already applied in the case of others, as it appears from the letter dated 17<sup>th</sup> August, 2011

wherein, it clearly indicates that 50% rent increased after every 5 years. Amount if any already paid to the petitioner to be adjusted while making final payment.

9. Let the copy of this letter dt.17.8.2011 as well as judgment be furnished to the Govt. for ready reference and one copy of the letter and schedule be kept in the file.

10. With this observation and directions, the impugned letter No.F.150011/1/98-DC(SRCP)/13 dt.17.9.2010 issued by the respondent No.5 and letter No.J.12012/7/1996-REV dt.8.10.2010 issued by the respondent No.2. are hereby set aside. The re-assessment processes to be completed within 2 (two) months from the date of this judgment.

11. With this writ petition is allowed and stands disposed off.

12. No order as to cost.

JUDGE

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