

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

WP(C) No. 86 of 2019

Petitioners:-

1. Ms. Olivia Laldinmawii Khiangte,  
D/o K. Vanlalmalsawma (L)  
R/o Electric Veng, Lunglei, Mizoram.
  
2. K. Lalmuanpuii,  
D/o K. Vanlalmalsawma (L)  
R/o Electric Veng, Lunglei, Mizoram.
  
3. K. Lalruatdiki,  
D/o K. Vanlalmalsawma (L)  
R/o Electric Veng, Lunglei, Mizoram.

-Versus-

Respondents:-

1. K. Vanlaltluanga  
S/o K. Rochhunga (L)  
R/o Electric Veng, Lunglei.
  
2. Sh. Lalbiaksanga  
S/o K. Vanlalhruaia (L)  
R/o Electrics Veng, Lunglei, Mizoram.
  
3. Rohlupuii  
D/o Hrangduna  
R/o Zotlang Lunglei, Mizoram.
  
4. The Secretary to the Government of  
Mizoram, Land Revenue & Settlement Department.

Advocate for the petitioners : Mr. Rosangzuala Ralte

Advocates for the respondents : Mr. L.H. Lianhrima, Sr. Adv.  
Ms. Ruth Lalruatfeli  
Mr. C. Zoramchhana, Addl.A.G.

BEFORE  
HON'BLE MR. JUSTICE NELSON SAILO

Date of hearing : 15.02.2022

Date of judgment : 18.02.2022

JUDGMENT & ORDER (CAV)

Heard Mr. Rosangzuala Ralte, learned counsel for the petitioners. Also heard Mr. L.H. Lianhrima, learned senior counsel assisted by Ms. Ruth Lalruatfeli for the respondent No. 1. None appears for the respondent Nos. 2 & 3 despite notice. I have also heard Mr. C. Zoramchhana, learned Additional Advocate General for the respondent No. 4.

[2.] This writ petition under Article 226 of the Constitution of India is filed by the petitioners challenging the Settlement dated 26.09.2015, reached by the parties concerned before the Lok Adalat sitting held in the Office of the District Level Services Authority, Lunglei District, Lunglei (Annexure-8).

[3.] Brief facts of the case may be noticed at the outset. One Shri. K. Rochhinga was the owner of LSC No. 145 of 1977, where he constructed his dwelling house. He resided in the said property during his lifetime. He expired leaving behind his 5 (five) children i.e., 3 (three) sons and 2 (two) daughters. The original respondent No. 2 in the instant writ petition who expired on 25.03.2019 was the eldest amongst the 5 (five) children of Shri. K. Rochhinga (L), while the respondent No. 1 is the second eldest. The father of the three petitioners i.e., Shri. K. Vanlalmalsawma who

expired on 06.05.2014 is the youngest amongst the five children of Shri. K. Rochhinga (L) and even after the death of Shri. K. Rochhinga, he continued to live in the main house which was constructed on LSC No. 145 of 1977. Shri. K. Vanlalmalsawma (L) had two wives. Out of the first marriage with Smt. Biaklianpuui, the three petitioners were born. From his second marriage with Smt. Rohlupuii, two children namely, Alex Lalfakawma and Judy Lalrinzuali were born.

[4.] Soon after Shri. K. Vanlalmalsawma expired, the respondent Nos. 1 & 2 filed Title Suit No. 7/2014 against Smt. Rohlupuii, the second wife of Shri. K. Vanlalmalsawma (L) in the Court of the Senior Civil Judge, Lunglei claiming for a declaration that they are the bonafide owner of the land and buildings in respect of LSC No. 209001/01/39 of 2012 and LSC No. 145 of 1977, including the buildings located at Lunglawn and Electric Veng respectively and also other properties left behind by late Shri. K. Vanlalmalsawma. It was during the pendency of the said Title Suit that the matter was referred to the Lok Adalat at Lunglei and consequently, a Settlement dated 26.09.2015 was arrived at by the parties concerned. The English translation of the Settlement dated 26.09.2015 is abstracted hereunder:-

#### "SETTLEMENT

Dt.26.09.2015

Both parties are present in the Lok Adalat sitting, the following are the issues;

Pu K. Vanlaltluanga is the elder brother of Rohlupuii's husband viz; K. Vanlalmalsawma. K. Vanlalmalsawma died on 6.6.2014 and the properties left behind by him have been agreed to be distributed in the following manner and thus the parties could come to a settlement.

Pu K. Vanlaltluanga shall get the following properties;

1) LSC No. 145 of 1777 located at Electric Veng (which is in the name of Pu K. Rochhunga (L)

2) ALTO Car bearing registration No. MZ 02 A 0202

3) The money in K. Vanlalmalsawma's Lunglei Apex Bank Account will be equally shared by the following :-

- (a) Alex Lalfakawma
- (b) Judy Lalrinzuali
- (c) Olivia Laldinmawii Khiangte
- (d) Caroline Lalmuanpuii
- (e) Lalruatdiki

The money to be shared is Rs. 191366 and the same shall be shared equally by the five persons mentioned above within a week from now.

Pi Rohlupuii will get the following properties :

1) Scooty MZ-01 A/2239

2) Pi Rohlupuii will be in temporary possession of land covered by LSC No. 209001/01/39 at 2012 at Lunglawn, Lunglei and the RCC building standing there until her son Alex Lalfakawma attains majority as per government laws. As and when Alex Lalfakawma attains majority, Pi Rohlupuii shall take steps to mutate the ownership of LSC No. 209001/01/39 of 2012 in the name of Alex Lalfakawma. Since Alex Lalfakawma is the owner of this land, no one is permitted to sell or make changes to the said land until he attains majority.

To show that they are agreeable to the settlement made both parties have subscribed their signatures. The properties to be shared are to be settled one week from today.

Sd/-K.VANLALTLUANGA.....Plaintiff

Sd/- Dr. IRENE COLVERT

Sd/- UPA PC SANGTHUAMA

Sd/- R. LALNUNTHARA

Sd/- ROHLUPUII....Respondent

Sd/- J. DENGTHANSANGI

Sd/- R. VANLALENA

Sd/- M.S. DAWNGLIANA"

[5.] Aggrieved with the above agreement, the petitioners are before this Court through the instant writ petition.

[6.] Mr. Rosangzuala Ralte, learned counsel for the petitioners submits that the petitioners are the children of late Shri. K. Vanlalmalsawma, who expired on 06.05.2014. At the relevant time, the petitioners were only minors and they were of the bonafide belief that the respondent Nos. 1 & 2 were taking proper care of their interest and welfare in respect of the properties and other belongings left behind by their late father, including LSC No. 145 of 1977, where the main house was situated and in which they were living. However, to the surprise of the petitioners, they came to learn that the respondent Nos. 1 & 2 on one side and Smt. Rohlupuii, the second wife of their father on the other side made a settlement before the Lok Adalat on 26.09.2015 by distributing the properties amongst themselves as stated in the settlement and without leaving any share for the petitioners on the property left behind by their late father.

[7.] The learned counsel by referring to the cause title and contents of the Title Suit No. 7/2014 submits that the declaration of right and title over the properties mentioned in the suit by the respondent Nos. 1 & 2 as plaintiffs are clearly the properties left behind by their late father Shri. K. Vanlalmalsawma. Therefore, the said settlement could not have been made in their absence and excluding them from inheriting any of the properties left behind by their late father. He therefore submits that being aggrieved with the

same and having no other alternative, the petitioners have filed the instant writ petition. He submits that a Lok Adalat settlement can be challenged before a Writ Court, as held by the Apex Court in the case of State of Punjab & Anr. Vs. Jalour Singh & Ors., reported in (2008) 2 SCC 660. The learned counsel further submits that pursuant to the settlement, the respondent No. 1 has mutated the LSC No. 145 of 1977 into his name after obtaining Heirship Certificate in the year 2018. Apprehending that they will be ousted from the main house standing on LSC No. 145 of 1977, the petitioners have filed the instant writ petition. He thus submits that the impugned settlement should be set aside and the matter remanded back for re-consideration by the Trial Court.

[8.] Mr. L.H. Lianhrima, learned senior counsel on the other hand submits that a writ does not lie against a private person who does not have a public duty to perform. In this connection, he relies upon the case of Radhey Shyam & Anr. Vs. Chhabi Nath & Ors., reported in (2015) 5 SCC 423. He further submits that although the Revenue Department has been made a party respondent in the present writ petition, but the fact remains that they were not a party before the Trial Court. The learned senior counsel further submits that in view of the Apex Court decision in State of Punjab & Anr. Vs. Jalour Singh & Ors. (Supra), a writ petition under Article 227 may lie against the settlement made before a Lok Adalat on limited grounds. However, the instant writ petition is filed under Article 226 of the

Constitution of India by the petitioners and therefore, the same is not maintainable.

[9.] Mr. L.H. Lianhrima further submits that there is inordinate delay on the part of the petitioners in filing the present writ petition, inasmuch as, the impugned agreement before the Lok Adalat was made on 26.09.2015 and by which time, the petitioner No. 1 in particular having being born on 15.03.1997 was already a major. Despite the same, the petitioners have only approached this Court by filing the instant writ petition on 20.06.2019. He submits that to avail a remedy under Article 226 of the Constitution of India, the party aggrieved should approach the Court at the earliest opportunity. The power conferred to the Court being an extra original power, it is the sole discretion of the Court to entertain the writ petition and inordinate delay is one of the ground available to the Court to refuse the exercise of its discretion. Under the facts and circumstances, the learned senior counsel submits that the writ petition should be dismissed.

[10.] Mr. C. Zoramchhana, learned Additional Advocate General appearing for the respondent No. 4 submits that he has nothing much to say, inasmuch as, the respondent No. 4 is only a proforma respondent and has no role to play in the present controversy.

[11.] I have heard the submissions made by the learned counsels for the rival parties and I have perused the materials available on record.

[12.] From what has been narrated hereinabove, it may be seen that Shri. K. Rochhinga (L) was the original owner of LSC No. 145 of 1977 and he is the grandfather of the petitioners. During his lifetime, the father of the petitioners was allowed to live in the main house which is situated on the said LSC. He however expired on 06.05.2014 and the said LSC continued to remain in the name of Shri. K. Rochhinga (L). In other words, Shri. K. Vanlalmalsawma did not inherit the property left behind by Shri. K. Rochhinga, his father. Further, living in the main house by itself cannot imply that the property of Shri. K. Rochhinga stood transferred to the occupant of the property/house namely, Shri. K. Vanlalmalsawma. From a perusal of the pleadings in Title Suit No. 7/2014, it can be seen that the respondent Nos. 1 & 2 sought for a declaration of their right to title and ownership over the land and buildings covered by LSC No. 209001/01/39 of 2012 located at Lunglawn, Lunglei and LSC No. 145 of 1977 located at Electric Veng, Lunglei and also the properties left behind by their deceased brother Shri. K. Vanlalmalsawma in their favour. The suit was filed against Smt. Rohlupuii, the second wife of late Shri. K. Vanlalmalsawma.

[13.] During the pendency of the Suit, the same was referred for settlement before the Lok Adalat and accordingly, vide the settlement dated 26.09.2015 was arrived at by the parties



concerned. As per the settlement, LSC No. 145 of 1977 which was in the name of Shri. K. Rochhinga was given to the respondent No. 1 and likewise, Alto Car bearing registration No. MZ 02 A-0202 was also given to him. The money in the bank account of Shri. K. Vanlalmalsawma was to be shared equally by all the 5 (five) children of late Shri. K. Vanlalmalsawma, including the three petitioners. In respect of Scooty bearing registration No. MZ 01 A-2239 and LSC No. 209001/01/39 of 2012, the same was given to the defendant Smt. Rohlupuii with a condition in respect of the LSC that she will mutate the ownership of the said property in the name of her son, Alex Lalfakawma once he attains the age of majority. It may be noticed that the petitioners while praying for setting aside the Settlement dated 26.09.2015 in this writ petition has mainly sought for the cancellation of Heirship Certificate No. 311 of 2018 and the mutation of LSC No. 145 of 1977 in the name of the respondent No. 1.

[14.] As already stated hereinabove, Shri. K. Vanlalmalsawma during his lifetime did not inherit the land and property covered by LSC No. 145 of 1977. If such is the case, there cannot be any basis for the petitioners to make a claim for the said property on the strength of being the daughters of late Shri. K. Vanlalmalsawma. It is also noted herein that the petitioner No. 3 during the pendency of this writ petition expired on 24.10.2019 and therefore, it is only the petitioner Nos. 1 & 2, who remain to make their claims. Although the petitioners have tried to project that the respondent Nos. 1 & 2 have committed fraud or mis-represented

them in respect of the properties left behind by their late father but however, the fact remains that the petitioners were also given their share of the money left behind by the late father along with their other siblings born from their step-mother. The respondent Nos. 1 & 2 in their Title Suit also sought for a declaration of the properties left behind by late Shri. K. Vanlalmalsawma in their names. Therefore, it is not a case of fraud or misrepresentation as sought to be projected by the petitioners.

[15.] The Apex Court in the case of State of Punjab & Anr. Vs. Jalour Singh & Ors. (Supra) held that the award made by a Lok Adalat based on settlement can be challenged by filing a petition under Article 226 and/or Article 227 of the Constitution of India on limited ground. In the given facts of that case, the Apex Court found that the Lok Adalat had exercised a power or jurisdiction which was not vested in it, since no compromise or settlement was arrived at by the parties concerned and which was duly signed as a token of acceptance. In the present case, it cannot be said that the Lok Adalat had exceeded its jurisdiction or had exercised the powers not vested in it, since an agreement/settlement was mutually arrived at and signed by the parties concerned. Therefore, I do not find this decision to be applicable to the case of the petitioners.

[16.] Having come to the above findings, I do not find the necessity to enter into the other technical issues raised by the learned senior counsel for the respondent Nos. 1 & 2. In the result, I do not find merit in the writ petition and the same is dismissed.

[17.] Before parting with the records, I find it necessary to provide herein that as there is no dispute to the fact that the petitioners are residing in the main house situated over LSC No. 145 of 1977, from the time their father late Shri. K. Vanlalmalsawma was alive, they should be allowed to reside peacefully in the main house as long as they want to.

[18.] Office to send back the Lower Court Records immediately.

JUDGE

*Annette*