

GAHC030002042023



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

**Case No. : RFA/12/2023**

Sh. David Chuangkima  
S/o Lalropianga (L)  
R/o Bethlehem Veng, Aizawl

VERSUS

Sh. Vungzaliana (L) R/b Smt. R. Lalrammawii and 2 Ors.  
R/b Smt. R. Lalrammawii  
W/o Vungzaliana (L)  
R/o Bawngkawn Chhim Veng, Aizawl      2:Smt. R. Lalrinkimi  
D/o R. Vanthuama (L)  
R/o Chanmari West  
Aizawl

3:Smt. Lalguri  
D/o Sairenga  
R/o Tuikhuahtlang  
Aizawl

**Advocate for the Petitioner** : Mr A.R. Malhotra

**Advocate for the Respondent** :

**BEFORE**  
**HONOURABLE MR. JUSTICE NELSON SAILO**  
**ORDER**

**Date : 26.04.2023**

Heard Mr. C. Tlanthianghlina, learned counsel for the appellant, who submits that the appellant being aggrieved with the Judgment & Order dated 02.03.2023

passed by the Court of Senior Civil Judge-III, Aizawl in Declaratory Suit No. 5/2014 has filed the instant appeal.

The learned counsel submits that late Sh. Vungzaliana during his lifetime had obtained loan from the bank by mortgaging his property covered by LSC No. AZL 39 of 1974 in the name of the respondent No. 2, Smt. R. Lalrinkimi. Since the loan amount of Rs. 4 lakhs which was borrowed could not be repaid, the respondent No. 3 Smt. Lainguri repaid the loan and redeemed the LSC from the bank. Thereafter, late Sh. Vungzaliana approached the present appellant to redeem the LSC from Smt. Lainguri and the appellant by paying a sum of Rs. 17 lakhs redeemed the property from Smt. Lainguri.

It is the case of the appellant that the arrangement between late Sh. Vungzaliana and the appellant was that the appellant will redeem the LSC from Smt. Lainguri and late Sh. Vungzaliana will reside in the landed property during his lifetime. However, after redeeming the property late Sh. Vungzaliana filed Declaratory Suit No. 5/2014 before the Court of Senior Civil Judge, Aizawl and the learned Trial Court vide the impugned Judgment & Order dated 02.03.2023, apportion the ground floor and the first floor of the building situated in the LSC concerned between the plaintiff Sh. Vungzaliana and the instant appellant. Aggrieved, the appellant has filed the instant appeal.

The learned counsel submits that one of the main grounds taken by the

appellant in filing the instant appeal is that the learned Trial Court had failed to consider the fact that the plaintiff/respondent No. 1 had voluntarily allowed the appellant to register the property in question in his name. The learned Trial Court has also failed to consider the fact that the appellant has been collecting rent for the portion of the building paid by the respondent No. 1/plaintiff for over 4 (four) months without any objection and instead proceed to declare the respondent No. 1/plaintiff as the owner of the ground floor and the first floor of the building in question covered by the said LSC.

In view of above, issue notice returnable by four weeks.

Appellant to take steps for service of notice upon the respondents by registered post with A/D due within 3 days.

List the matter again **after 4 (four) weeks.**

**JUDGE**

**Comparing Assistant**