

GAHC030007222025



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

**Case No. : I.A.(Civil)/190/2025**

The State of Mizoram and 2 Ors.  
Represented by the Chief Secretary to the Government of Mizoram  
Public Works Department  
Aizawl

2: The Secretary to the Government of Mizoram  
Public Works Department  
Aizawl

3: The Engineer-in-Chief  
Public Works Department  
Mizoram  
Aizawl

VERSUS

Sh. K. Kalkhama and 9 Ors.  
S/o Laihnuna  
R/o N. Chaltlang  
Kolasib District

2:Sh. R. Thanzuala  
S/o Chawndenga  
R/o N. Chaltlang  
Kolasib District

3:Thanzuala  
S/o Chawngdenga  
R/o N. Chaltlang  
Kolasib District

4:Sh. Rintluanga  
S/o Khuangliana  
R/o N. Chaltlang

Kolasib District

5:Presbyterian Church  
R/o N. Chaltlang  
Kolasib District

6:Sh. R. Sangthanga  
S/o Khuangliana  
R/o N. Chaltlang  
Kolasib District

7:Sh. Lallianchhunga  
S/o Chawngdenga  
R/o N. Chaltlang  
Kolasib District

8:Sh. Lalzawma  
S/o Sawiluaia  
R/o N. Chaltlang  
Kolasib District

9:Sh. Dailova  
S/o Saia  
R/o N. Chaltlang  
Kolasib District

10:Sh. Dailova  
S/o Saia  
R/o N. Chaltlang  
Kolasib District

Advocate for the Petitioner : Mr. C Lalfakzuala  
Advocate for the Respondent :

**BEFORE  
HONOURABLE MR. JUSTICE ROBIN PHUKAN  
ORDER**

**28.10.2025**

Heard Mr. C. Lalfakzuala, learned counsel for the applicants.

**2.** In this application, under Order 41 Rule 5 of the CPC, the applicants have prayed for staying the impugned judgment and order dated 11.09.2025, passed

by the learned Fast Track Court-cum-Additional District Judge, Aizawl Judicial District, Kolasib (executing court hereinafter) and also the order of Attachment dated 11.09.2025, passed in Execution Petition No. 02/2025, arising out of LA Case No. 16/2015.

**3.** It is to be noted here that vide impugned judgment and order dated 11.09.2025, the learned executing court has ordered that the properties (moveable and immoveable/machineries) belonging to the judgment debtors (PWD, Mizoram) be attached forthwith with the assistance of Kolasib District Police Force and meanwhile, detention in civil prison of the judgment debtors, i.e. Officers/Engineers of PWD, was deferred until further order and the attachment order in detail was prepared in separate sheet/order.

**4.** Mr. Lalfakzuala, learned counsel for the applicants submits that the aforementioned judgment and order dated 11.09.2025, passed in Execution Petition No. 02/2025, arising out of LA Case No. 16/2015 is being challenged in a regular first appeal, being RFA No. 48/2025 and the said appeal has already been admitted for hearing and the scanned copy of the record has also been called for from the learned executing court and that the impugned judgment and order caused substantial loss to the applicants and as such, there is a requirement for staying the said judgment and order.

**4.1.** Mr. Lalfakzuala further submits that the execution case, being Execution Petition No. 02/2025, has arisen out of the judgment and order dated 17.12.2024, passed in LA Case No. 16/2015 and against the said judgment and order, an appeal is also being preferred before this Court and as there was delay in filing the appeal, one condonation petition has been filed, wherein this Court has issued notice to the opposite parties and pending disposal of the appeal, the learned executing court has registered the said execution case and passed the

impugned judgment and order dated 11.09.2025 and also issued the order of attachment.

**4.2.** Further submission of Mr. Lalfakzuala is that though there is no specific direction in the Attachment Order, dated 11.09.2025, to attach the Office of the Executive Engineer, Kolasib, yet pursuant to the order of attachment, dated 11.09.2025, the executing officer had attached the office of the Executive Engineer, situated in Kolasib district and thereby, the officers and staffs of the office are prevented from entering in the office and discharging their duties.

**4.3.** Mr. Lalfakzuala also submits that the learned executing court has failed to provide sufficient opportunities to the applicants to project their case and thereby, serious prejudice is caused to them and that because of attachment of the office and various machineries, used for maintenance of public infrastructure, the applicants had suffered substantial loss. Mr. Lalfakzuala further submits that as the office of the applicants is charged with executing and maintaining critical public infrastructure, closure of the same has adversely affecting the development works of the public and that the order of attachment, dated 11.09.2025, triggered a catastrophic halt to all development and maintenance works, which directly jeopardize the public projects with a total financial outlay of Rs. 172.87 crores.

**4.4.** It is also submitted by Mr. Lalfakzuala that vide judgment an order dated 11.09.2025 and order of Attachment dated 11.09.2025, execution of time-bound projects and mandated activities of districts infrastructure development plunged into paralysis and road connectivity projects under PMGSY, SASCI and NABARD, construction and strengthening of State Highways and Major Districts Road, Bridge construction with a total value of Rs. 151.92 crores are now halted and the administrative approval and secured funds of worth Rs. 20.95 crores, could

not be commenced.

**4.5.** Mr. Lalfakzuala also submits that impugned judgment and order was passed hastily, without availing or adjusting the alternative remedy and as such, process for RA Bills, Final Bills could not be made and the staffs of the said office could not be paid their monthly salaries and also the bill of the contractors could not be processed and income tax deduction could not be made. Further, the GST, TDS and Labour cess-under the Building and Other Construction Workers Act and e-payment files are halted and that the mandatory progress reports of Central Government Schemes, under PMGSY cannot be submitted, which will lead to immediate stoppage of funds from the Government of India.

**4.6.** Under such circumstances, Mr. Lalfakzuala submits that there is urgent need in staying the impugned order of attachment and also the judgment and order dated 11.09.2025, passed by the learned executing court.

**4.7.** In support of his submission, Mr. Lalfakzuala has referred following decisions:-

- (I) **Lifestyle Equities C.V. and Another vs. Amazon Technologies Incorporation**, reported in **LiveLaw (SC) 974**;
- (ii) **Odisha Forest Development Corporation Limited vs. Anupam Traders and Another**, reported in **(2020) 15 SCC 146**;  
and
- (iii) **Rajaram Prasad Gupta and Another vs. Ramchandra Prasad and Others**, reported in **(2008) 10 SCC 796**.

**5.** Having heard the submissions of learned counsel for the applicants, this Court has carefully gone through the application as well as the documents

enclosed therewith and also perused the impugned judgment and order, dated 11.09.2025, in **Execution Petition No. 02/2025** along with the order of attachment dated 11.09.2025.

**6.** It appears that the appeal being preferred against the judgment and order dated 11.09.2025, has already been admitted for hearing and the scanned copy of the record has also been called for. It further appears that in the impugned attachment order, dated 11.09.2025, there was no direction for attaching the office of the Executive Engineer, PWD, Kolasib. But, from the Annexure – 1, at page No. 15 of this application, it appears that the office of the Executive Engineer, PWD, Kolasib Division, has been attached and for which, the development activities being supervised and carried out under the jurisdiction of the said Executive Engineer is halted.

**6.1.** It also appears that because of the attachment of the aforementioned office, the salaries of the employees could not be paid and bills of the contractors could not be processed and the progress report of the scheme of the Central Government could not be furnished also.

**6.2.** Further, it appears that because of the said attachment, execution of road connectivity projects under PMGSY, SASCI and NABARD are halted and if the same is continued, then administrative approval of the projects and secured funds amounting to Rs. 20.95 crores, could not be commenced and as such, the administrative as well as financial function of the Executive Engineer, PWD, Kolasib Division, is completely halted.

**7.** It is to be noted here that in the case of **Rajaram Prasad Gupta (Supra)**, Hon'ble Supreme Court has held that it is well settled that in cases, where the subject of suit is residential premises and the judgment debtor is

residing in it, prayer for stay is ordinarily granted and of course, for special reasons, it may be refused also.

**7.1.** But, this Court afraid the proposition of law, laid down in the said case, would not advance the argument of the learned counsel for the applicants inasmuch as here in this case the subject is not residential premises, but an office.

**8.** Further, in the case of **Anupam Traders (Supra)**, Hon'ble Supreme Court has held that the power to grant stay is discretionary, which is equitable in nature.

**9.** Again, in the case of **Amazon Technologies (Supra)**, Hon'ble Supreme Court has held that any execution proceeding or an order therein, shall be stayed only if a specific, reasoned order granting such stay is passed by the appellate court, after proper application of mind and mere filing of an appeal against an order of execution shall not *ipso-facto* operate as a stay of proceeding and that the power of appellate court is a discretionary one and Order 41 Rule 5(3) of the CPC casts an obligation upon the appellate court to record the satisfaction for stay of execution of such decree and sufficient cause has to be shown for the same.

**9.1.** It is also stated in the said case that the appellate court has to see, under Order 41 rule 5(3) of the CPC that (i) whether there will be substantial loss to the party applying for stay; (ii) whether the application has been made without unreasonable delay; and (iii) whether security has been given by the applicant for due performance of the decree and that it is mandatory for the appellate court to assign reason for its satisfaction regarding the existence of a sufficient cause and also to impose a condition for depositing an amount in dispute, etc.

**9.2.** It is further held in the said case that for the purpose of bringing a case within the purview of 'exceptional cases' for the purpose of granting unconditional stay of execution of money decree without imposing any condition by the appellate court, would be, if the money decree in question (a) is egregiously perverse; (b) is riddled with patent illegalities; (c) is facially untenable; and (d) such other exceptional causes similar in nature.

**10.** In the case in hand, from the materials placed on record and also by his submission, the learned counsel for the applicants, has successfully demonstrated that substantial loss to the applicants are being caused as discussed in paragraph No. 6, 6.1. & 6.2. hereinabove and that there is also no unreasonable delay.

**11.** Under the given factual and legal matrix and also balancing the equities, this Court is inclined to grant stay to the Attachment Order, dated 11.09.2025.

**11.1.** Though there is a prayer for staying the judgment and order dated 11.09.2025, passed by the learned executing court, the same is stayed till returnable date, subject, however, to depositing of half of the compensation amount of **Rs. 1,01,94,308/-**, before the learned executing court within a period of 2 (two) weeks from today.

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

**13.** In the meantime, let notice be issued to the opposite parties, within a week from today, by registered post with A/D as well as by usual process and returnable in 4 (four) weeks.

**JUDGE**

**Comparing Assistant**