



GAHC030000052016



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

Case No. : RFA/26/2016

Pastor V Rothuamluaia, UPC of Mizoram and 8 Ors.
Kolasib Hmarveng, Kolasib 2: Pastor Rodingpuia
Vairengte

3: Upa Raldongama
Vairengte

4: Upa C Sena
Vairengte

5: VL Dika
Vairengte

6: HV Lalzamlova
Vairengte

7: Lalmangaiha Pachuau
Vairengte

8: Biaktluanga
Kolasib

9: C Lalthanliana
Kolasi

VERSUS

United Pentecostal Church of North East India, r/b General Supdt. Aizawl and 10 Ors.
Mualpui, Aizawl 2:Dist Supdt
UPC North Mizoram
Aizaw

Advocate for the Petitioner : Mr. L.H. Lianhrima, Sr.Adv.



Advocate for the Respondent : Mr Lalfakawma for R1-R4 & R7

**BEFORE
HONOURABLE MRS. JUSTICE MARLI VANKUNG**

JUDGEMENT

Date : 01.06.2023

Heard Mr. L.H. Lianhrima, learned Senior counsel for the appellants along with Mr. Lalfakawma, learned counsel for respondent Nos. 1 to 4 & 7.

[2.] This is an appeal filed under Section 17(2)(b) of the Mizoram Civil Courts Act, 2005 r/w Section 96, CPC against the Judgment & Order dated 22.09.2016 passed by the learned Senior Civil Judge, Kolasib : Aizawl Sessions Division in Civil Suit No. 11/2014.

[3.] The instant RFA is with regards to the title over the land covered under Misc. Pass No. 139 of 1961 and 21 of 1971 and the immovable properties covered by Biak in Pass No. 37 of 1975 as well as House Pass No. 53 of 1988. The learned Trial Court in its Judgment & Order dated 22.09.2016 had decreed that the plaintiffs/respondents shall have ownership and title over the land covered under Misc. Pass No. 139 of 1961 located at Kolasib Venglai and the land covered under Misc. Pass No. 21 of 1971 dated 09.11.1971 located at Kolasib Hmar Veng in Civil Suit No. 12/2016 and similarly in Civil Suit No. 11/2014 had decreed that the plaintiffs/respondents shall have ownership and title over the land under Biak in Pass No. 37 of 1975, wherein the church building was



built by the church under UPC (NEI) located at Vairengte Venglai, Kolasib District, land covered under House Pass No. 53 of 1998 located at Vairengte, Kolasib District and the land in which the church building built by the Vairengte Kawngthar church under the UPC (NEI). Further, that the plaintiffs/respondents shall have peaceful and uninterrupted possession of the above mentioned land and building. Aggrieved by the impugned Order dated 22nd September, 2016 in Civil Suit No. 11/2014 and the impugned Order dated 22nd September, 2016 in Civil Suit No. 12/2016, the appellants have filed the instant Regular First Appeal.

[4.] Mr. L.H. Lianhrima, learned Senior counsel submits that the common Judgment dated 22.09.2016 in Civil Suit No. 11 & 12 of 2014 is liable to be set aside and quashed, on the grounds that the learned Trial Court had arrived at the decision against the appellants purely on the basis of the Judgment & Order dated 30.01.2015 passed by the Gauhati High Court in RFA No. 52/2012. That no oral or documentary evidence was adduced for the appellants to prove their case. That the learned Trial Court was prejudiced and totally biased against the appellants in passing the impugned Judgment dated 22.09.2016, as the same was passed without any application of judiciary mind. The respondents/plaintiffs have neither produced any witness nor exhibited any of the documents before the learned Trial Court and the learned Lower Court had not given any chance to the appellants/defendants to produce and examine their witnesses to enable them to prove their case. The learned



Lower Court did not decide the Civil Suit No. 11 & 12 of 2014 on merits, since no evidence either oral or documentary was recorded. In support of his submissions, he has cited the case of *Union of India & Ors. Vs. Vasavi Corporative Housing Society Ltd. & Ors.*, reported in 2014 2 SCC 269 referring to paragraph Nos. 15 & 19 and *CN Ramappa Gowda Vs. CC Chandre Gowda & Anr.*, reported in 2012 5 SCC 265.

[5.] Mr. Lalfakawma, learned counsel for the respondents, on the other hand submits that the instant matter is squarely covered by the decision of a Coordinate Bench of this Court in *The General Superintendent United Pentecostal Church North East India (NEI) Vs. Rev. Chhunglewma, District Superintendent, North Mizoram District United Pentecostal Church & Ors.* in RFA No. 52/2012 dated 30.01.2015, wherein a Coordinate Bench of this Court had held that:-

“16. Therefore, a proper scrutiny of the depositions made by the PWs as well as the exhibits would indicate that the UPC Mizoram had come into existence only in the year 1995 after having some dispute with the UPC North East India. The exhibits further prove that the land passes were not issued to the UPC Mizoram. This being the uncontroverted evidence on record, this Court has no hesitation to come to the conclusion that UPC Mizoram is an off-shoot/breakaway group of UPC North East India and that being the position, they cannot have any claim over the disputed properties with the UPC North East India.



17. Considering the deposition of the PWs, it can also be ascertained that the UPC Mizoram is not a registered body and therefore the plaint that was filed by the plaintiff/respondents could also not have been entertained in the manner that was filed inasmuch as this Court has not come across any material on record to show that the members of the UPC had Mizoram authorized the plaintiffs/respondents to file a suit on behalf of UPC Mizoram.

18. Having come to the finding that the UPC Mizoram has come into existence in the year 1995 and they are breakaway/off shoot of UPC North East India, this Court is of the considered opinion that the learned Trial Court had erred by dividing the properties between the appellant and respondents in the manner that has been done by the impugned judgment and decree dated 9.8.2011."

[6.] That the instant case is also having similar facts, the only difference is with regards to the properties concerned which is in Kolasib District instead of Aizawl District. He further submits that the decision of the Coordinate Bench of this Court in RFA No. 52/2012 has now been upheld by the Apex Court in SLP(C) No.(s) 22972/2015 dated 07.09.2022 and the SLP filed by the instant appellants was dismissed.

[7.] Having heard the submissions made by both the parties, this Court finds that



the instant Regular First Appeal is clearly covered by the judgment and order of a Coordinate Bench in RFA No. 52/2012, since the facts and circumstances are the same. The properties in dispute in RFA No. 52/2012 is with regards to the properties situated in Aizawl District while in the instant RFA, the properties in dispute are situated at Kolasib District. Apart from these differences facts and circumstances are similar, thus, the UPC Mizoram being the off shoot of UPC NEI, Court cannot claim the properties mentioned in Civil Suit No. 11 & 12 of 2014. Moreover, the findings of a Coordinate Bench in RFA No. 52/2012 has been upheld by the Apex Court in its Order dated 07.09.2022.

[8.] In view of the above, this Court finds that since this matter is clearly covered by the above mentioned RFA No. 52/2012, which has been duly upheld by the Apex Court, the instant RFA is liable to be dismissed and stand disposed of.

JUDGE

Comparing Assistant