
(2005) 08 GAU CK 0065
In the Gauhati High Court
Case No : Regular First Appeal No. 3 of 2003

L. Biakchhunga

APPELLANT

Vs

State of Mizoram and Others

RESPONDENT

Date of Decision : 01-08-2005

Acts Referred:

Administration of Justice (Lushai Hills) Rules, 1937 — Rule 18, 21
Assam Frontier Tracts Act, 1908 — Section 2
Civil Procedure Code, 1908 (CPC) — Section 1(3), 80
Constitution of India, 1950 — Article 239, 244, 371G
Government of India Act, 1935 — Section 92(1), 92(2)
Income Tax Act, 1961 — Section 10(26)
Limitation Rules, 1908 — Rule 44
North Eastern Areas (Reorganisation) Act, 1971 — Section 77
Scheduled Districts Act, 1874 — Section 5, 5A, 6
State of Mizoram Act, 1986 — Section 13, 43, 43(2)

Citation : (2006) 2 GLR 610 : (2006) 3 GLT 3 : (2006) 3 GLT 1785

Hon'ble Judges : Amitava Roy, J

Bench : Single Bench

Advocate : C. Lalramzauva, A.M. Malhotra and R. Lalduhawmi, for the Appellant; N. Sailo, for the Respondent

Final Decision : Dismissed

Judgement

Amitava Roy, J.—This appeal while registering a challenge to the judgment and order dated 27.6.2003 passed by the learned Additional District Magistrate (Judicial), Aizawl, in RFA 5/2003 raises a question of considerable moment relating to the applicability of the Limitation Act, 1963, to the State of Mizoram. By the impugned judgment and order, the learned Appellate Court affirmed the judgment and order of the learned Trial Court dismissing the suit of the appellant/plaintiff amongst others being barred by limitation.

2. I have heard Mr. C. Lalramzauva, learned Counsel for the appellant and Mr. N. Sailo, learned Government Advocate for the respondents.

3. The pleaded facts are indispensable. The appellant/plaintiff instituted Money Suit No. 50/98 in the Court of the Additional Deputy Commissioner (Judicial), Aizawl, against the respondents praying for a decree, inter alia, for declaring that the respondents/defendants are jointly and severally liable to pay a sum of Rs. 10,12,500 on account of damages as well as a sum of Rs. 50,000 on account of mental agony/suffering to him with interest @ 12 percent per annum calculable from 1.8.1990. The appellant's/plaintiff's case in short is that he is the proprietor-cum-manager of an Industrial concern named and styled "LB Press" engaged in printing of documents, books and other printing works assigned to him by the Government and other agencies. The respondent Nos. 2 and 5 being in need of forms and bills for their divisions under the Power and Electricity Department (hereafter referred to as the P & E Department), Government of Mizoram, by letter dated 2.7.1990 addressed to the respondent/defendant No. 4 indicated their requirement and requested the latter to issue a No Objection Certificate for getting the printing works done by a private printing press. The requisition, inter alia, was for service connection bill books numbering fifty thousand. As the establishment of the respondent/defendant No. 4 was not in a position to meet the requirement of the P & E Department, a tender notice was floated in response whereunto a number of private printing press owners including the petitioner submitted their tenders. Accordingly the works were allotted to different private press owners in course of which the appellant/plaintiff was also allotted the printing works of twenty-five thousand service connection bill books @ Rs. 4.50 per book. The work orders issued by the respondent/defendant No. 4 on 23.7.1990 to the above effect stipulated the completion period to be three weeks.

According to the appellant/plaintiff, he immediately got to work and collected the required materials such as papers and other ancillary articles for which he incurred an expenditure of Rs. 4,00,000 approximately. The appellant/plaintiff asserted that because of his untiring efforts the works could be completed within the period of three weeks and thereafter he intimated the authorities of the P & E Department about the same. Just before the appellant/plaintiff was contemplating to submit the bill for the works done, the respondent/defendant No. 5 by communication dated 5.9.1990 intimated the respondent/defendant No. 3 about some modifications in the earlier requisition scaling down the requirement of service connection bill books to 100 instead of twenty-five thousand as originally placed. The pleaded case of the appellant/plaintiff is that thereafter the respondent/defendant No. 5 by communication dated 7.9.1991 cancelled the work order dated 27.3.1990. Consequent thereto, the respondent/defendant No. 5 only accepted 100 service connection bill books printed by the appellant/plaintiff and was paid for the same alone. The appellant/plaintiff being aggrieved submitted a representation on 27.2.1991 before the respondent/defendant No. 5, contending that such unforeseen cancellation had resulted in heavy financial loss to him in view of the investments already made. As there was no response to the representation, the appellant/plaintiff approached the

respondents/defendants on several occasions pleading before them to accept the bill for twenty-five thousand service connection bill books printed by him. He followed up his request by submitting a representation on 20.11.1997 before the respondent/defendant No. 5. As his request remained unheeded, he eventually served a notice dated 9.9.1998 before the respondent/defendants u/s 80 CPC and thereafter filed the suit. According to him, the cause of action there for had arisen on 23.7.1990, the date of the work order and finally on 7.9.1991 when the same was cancelled. According to him, because of the illegal and arbitrary action of the respondents/defendants, he suffered a loss of Rs. 10,12,500 besides mental agony and harassment.

4. The respondent/defendant Nos. 2 and 5 in their joint written statement question the maintainability of the suit, inter alia, on the ground of bar of limitation. They disputed the appellant/plaintiffs claim of investment of Rs. 5,00,000 in arranging the printing materials. While admitting the issuance of the work order dated 23.7.90 with the stipulated period of three weeks for completion of the works, the answering defendants asserted that in the spot verification that was conducted on 21.9.1992 at the printing press of the appellant/plaintiff, only 119 service connection bill books were found to have been completed. While supporting the decision to reduce the requirement of service connection bill books to 100 for shortage of funds, they pleaded that the appellant/plaintiff had at no point of time intimated the respondents/defendants about the completion of the allotted works. According to them, the P & E Department duly intimated about its reduced requirement to the respondent/defendant No. 4 and that, therefore, the answering defendants were not responsible for omission on the part of the respondent/defendant No. 4 in cancelling the work order. It was contended that the appellant's/plaintiff's claim was untenable in law and that as he had been duly paid for the 100 service connection bill books printed by him, the suit was liable to be dismissed.

5. On the basis of the pleadings of the parties, the learned Trial Court, i.e., the Court of the Assistant to the Deputy Commissioner, Aizawl, District Aizawl, framed the following issues.

- (i) Whether the suit is maintainable in its present form and style.
- (ii) Whether the suit is barred by the principle of limitation, laches, estoppel and acquiescence.
- (iii) Whether there is any cause of action in favour of the Plaintiff and against the Defendants.
- (iv) Whether there is any difference in the reliefs claimed in the plaint and in the legal notice u/s 80 CPC.
- (v) Whether the suit is liable to be dismissed for insufficient Court fees.
- (vi) Whether there was work order in favour of the plaintiff for printing of 25,000 copies of service connection bill books to be completed within three weeks.

(vii) Whether the plaintiff had executed the said work as ordered.

(viii) Whether cancellation/amendment of the said work order by the defendants after execution and completion of the work is proper or legal.

(ix) Whether the plaintiff is entitled to the reliefs claimed. If so, to what extent ?

6. The appellant/plaintiff examined himself and two other witnesses, namely, Lalremtlunga and K. Lalzuitluanga whereas the respondents/defendants examined Vanlalphenah as their sole witness. Both the sides also introduced documentary evidence.

7. The learned Trial Court on a consideration of the pleaded facts and the evidence on record dismissed the suit holding, inter alia, that the appellant/plaintiff had failed to prove that he had executed the work in terms of the original work order as well as on the ground that the suit was barred by limitation. In coming to its conclusion on merits, the learned Trial Court was of the view that the appellant/plaintiff had failed to prove his investment as claimed and that he had not submitted any bill for the works said to be executed by him.

8. Being aggrieved, the appellant/plaintiff took the matter in appeal to the Court of the Deputy Commissioner, Aizawl, under Rule 18 of the Rules on Regulation of Officers Appointed to Administer Justice to the Lushai Hills, 1937, (hereafter referred to as the 1937 Rules). By the impugned judgment and order, the learned lower Appellate Court affirmed the decision of the learned Trial Court. It returned a finding that the appellant/plaintiff had not completed the works within the stipulated period of three works, i.e., before the intimation of the reduced requirement as well as the cancellation of the work order. Noticing that the cause of action for the suit had arisen in the year 1990-91, the learned lower Appellate Court also affirmed the decision of the learned Trial Court that the suit was barred by limitation.

9. Mr. Lalramzauva has argued that the learned Court below had manifestly erred in dismissing the suit both on the ground of limitation as well as on merits. He contended that as the applicability of the Limitation Act, 1963, (hereafter referred to as the 1963 Act) had been barred in all tribal areas of Assam specified in Part A of the table appended to para 20 of the VIth Schedule to the Constitution of India w.e.f. 1.1.1964 by the notification dated 14.3.1966 issued by the Governor of Assam and the arrangement prevailing had been continued by the Northeastern Areas States Reorganization Act, 1971, (hereafter referred to as the 1971 Act), there was no legally prescribed period of limitation for filing of the suit and, therefore, the finding of the learned Court below to the contrary is clearly not sustainable in law. He pleaded that the Indian Limitation Act, 1908, stood similarly excluded in its operation from the tribal areas of Assam under the VIth Schedule to the Constitution of India by notification No. 5868-AP dated 1934, as is evidenced by Rule 21 of the 1937 Rules. As the notification dated 14.3.1966 was in force in the area at the time of enactment of the 1971 Act by virtue of Section 79 thereof, the applicability of the Act continued to remain

excluded though w.e.f. 21.1.1972, the Union Territory of Mizoram came into existence. The learned Counsel for the appellant referred to the list of Central Acts in force in Mizoram to highlight that the 1963 Act was not included therein. To buttress his contention, attention of this Court was invited to the list of the excluded Central Acts featuring the 1963 Act therein.

Mr. Lalramzauva, therefore, assertively urged that the provisions of the Act are not in force in the State of Mizoram and, therefore, the learned Court below had erred on a substantial question of law in holding otherwise. He, however, contended that though presently the erstwhile Mizo District is no longer a tribal area under para 20 of VIth Schedule to the Constitution of India, for all intents and purpose, it continued to be so for the purpose of the 1963 Act and the 1937 Rules. He submitted that having regard to the admission on behalf of the State respondents in their reply to the notice u/s 80 CPC, a fresh period of limitation had been initiated thereby and in that view of the matter, the suit could not be said to be time barred. In any view of the matter, Mr. Lalramzauva submitted that the exclusion of the 1963 Act has been with a view to avoid unnecessary inconvenience and hardship to the people of the area unmindful of the legal intricacies and, therefore, this Court ought to adopt a liberal approach on the issue.

10. On merits, the learned Counsel for the appellant/plaintiff submitted that the learned Court below totally misread and mis-appreciated the evidence on record and, therefore, the findings being not supported by the same are untenable and are liable to be set aside. According to him, the printing work having been awarded to the appellant/plaintiff by the respondent No. 4, it was beyond authority of the respondent/defendant No. 5 to cancel the same. Moreover, it being evident from the materials on records that the appellant/plaintiff, on being awarded the work, had acted with promptness and prudence for the execution thereof investing huge amount of money, the learned Court below erred in law and on facts in holding that he had failed to prove that the works were executed in terms of the work order. The learned Counsel asserted that the learned Court below rejected the case of the appellant/plaintiff relying wholly the evidence of D.W.I pertaining to the spot verification said to have been conducted by overlooking the fact that the same had been disputed by the plaintiffs witness P.W.I, denying his signature on the Enquiry Report. The learned Counsel contended that the learned Court below approached the evidence adduced on behalf of the appellant/plaintiff with a closed mind and its determination on the aspect of limitation was influenced by the decision of this Court in *Lalchawimawia and Ors. v. State of Mizoram* and Ors. 1999 (2) GLT 410 with out, however, noticing that the observations therein on the aspect of applicability of the Limitation Act, 1963 did not constitute a ratio decidendi. In support of his submissions, Mr. Lalramzauva placed reliance on a decision of this Court in *State of Meghalaya v. U. William Mynsong* (1987) 2 GLR 221.

11. In reply, the learned state counsel argued that the law having been laid down

by this Court in Lalchawimawia and others (supra), that the provisions of the Act are applicable to the State of Mizoram, it was final and binding and, therefore, the learned Trial Court is perfectly justified in dismissing the suit as barred by time. According to him, in view of the Mizoram Adaptation of Laws Order, 1972, the 1937 Rules continued to be in force and in terms of Rule 21 thereof, the suit having been filed against the State, the principles of the 1963 Act, were clearly attracted thereto. He, therefore, maintained that having regard to the date on which the cause of action for the suit had arisen, it was clearly barred by time and, therefore, the learned Court below on this count is unassailable.

He further submitted that the appellant/plaintiff having failed to prove that he had executed the works within the stipulated period in terms of the original work order and that he had suffered loss for the modification/cancellation thereof, the suit was rightly dismissed. As the appellant/plaintiff had acted on the arrangement effected by the original work order and the modifications thereto he was estopped from questioning the authority of the P & E Department in modifying/cancelling the work order. According to Mr. Sailo, in any view of the matter, in face of the unexplained delay of eight years in instituting the suit, the appellant/plaintiffs claim was highly doubtful and he having failed to prove his case, the learned Court below was justified in law in passing the impugned judgment and order. In support of his stand, Mr. Sailo drew the attention of this Court to the appellant/plaintiffs letter dated 27.9.1991 which according to him was conspicuously silent about any claim of completion of the work.

12. In reply Mr. Lalramzauva, submitted that in absence of any privity of contract between the P & E Department and the appellant/plaintiff, the former could not have either modified or cancelled the work order and that the State respondents in the attending facts and circumstances, thus, cannot be permitted to take advantage of their own wrong.

13. The competing arguments have been considered. Both the Courts below have decided the issue of limitation against the appellant/plaintiff. As the decision on the said issue would have a vital bearing on the outcome of the instant appeal, it is considered expedient to examine the same at the outset. As the adjudication of the issue of limitation would involve the question of applicability of the 1963 Act in Mizoram it would be unavoidably necessary to trace the background of the evolution of the State of Mizoram with the accompanying legislative metamorphosis.

14. The legislative history of the area, now the State of Mizoram and the contemporaneous transitional phases culminating in its Statehood have progressed hand in hand. In fact one witnessed and complimented the other. The decision on this issue would be of far reaching implication. Hence the proposed narration for the adjudicative pursuit has to essentially open from the nascent stages.

15. The erstwhile Lushai Hills District, the precursor of the present day State of

Mizoram was formed on 1.4.1898. Four enactments, namely, The Scheduled Districts Act, 1874, Assam Frontier Tracts Regulation, 1880, Assam Police Officers Regulation, 1883 and the Indian Penal Code, 1860 were with effect from that date extended to the said area. With the enactment of the Government of India Act, 1919, the Lushai Hills District was designated as a "Backward Tract". For the period 1.4.1898 to 3.1.1921 no Act or Regulation could be automatically extended to this territory unless so done u/s 5 or 5A of the Schedules Districts Act, 1874. Similarly no such Act or Regulation could automatically cease to be in force there unless directed u/s 2 of the Assam Frontier Tracts Regulation, 1880. For the period between 3.1.1921 to 1.4.1927, the Central Laws enacted before the Government of India Act, 1915 and made applicable to the area continued to be in force if particularly extended under the Scheduled Districts Act, 1874, and if not excluded in its application by the Assam Frontier Tracts Regulation. The area was christened as "excluded area" With the enactment of the Government of India Act, 1935, whereupon the Scheduled Districts Act, 1874, and the Assam Frontier Tracts Regulation, 1880, ceased to be in force w.e.f. 1.4.1937. The existing laws were adopted with required modifications under the Government of India (Adaptation of Indian, Laws) Order, 1937 and the laws adapted or enacted during 1.4.1937 to 26.1.1950 were required to be extended to such area by notification u/s 92(1) of the Government of India Act, 1935. Amendment or repeal of an existing Act was permissible through a Regulation made u/s 92(2) thereof.

With the framing of the Constitution, the Lushai Hills District was included in the tribal areas of the State of Assam specified in Part A of the Table under Para 20 of the Sixth Schedule thereto. Article 244 ordained that the provisions of the Sixth Schedule would apply to the administration of the tribal areas therein. Consequent thereto, the Lushai Hills District Council came into existence to administer the affairs of the tribal areas of Lushai Hills District in terms of the Sixth Schedule.

16. We may retrace our path at this stage a bit to catch up with the issue in hand. The Indian Limitation Act, 1908, a Central Legislation was enacted to consolidate and amend the law for the limitation of suits and other purposes and was brought in force w.e.f. 1.1.1909 and extended to the whole of British India. The Governor-in-Council, in exercise of powers u/s 2 of the Assam Frontier Tracts Act, 1908, however, declared that it would cease to be in force, inter alia, in the Lushai Hills District, This was vide notification No. 5868 AP dated 8.9.1934. However, by another notification being 5869 AP of the same date u/s 6 of the Scheduled Districts Act, 1874, the said authority was pleased to insert a new rule in the Rules for Administration of the North Cachar Hills as Rule 44 prescribing that though the Indian Limitation Act, 1908, had been barred, the principles thereof should be closely followed in disputes between the persons who are not the natives in the areas mentioned therein including Lushai Hills. This precept found its way in the 1937 Rules framed by the Governor of Assam in exercise of powers conferred u/s 6 of the Scheduled Districts Act, 1874. Rule 21 thereof,

thus, provided that although the Indian Limitation Act, 1908, had been barred by Notification No. 5868-A.P., dated 8.9.1934, the principles of the Act should be closely followed in disputes between persons not belonging to a Scheduled Tribe or Tribes of the area specified under the relevant law. In other words, the 1937 Rules required applicability of the principles of the Indian Limitation Act, 1908, in disputes between persons who were not indigenous to the area. The 1937 Rules were preceded by the Rules for Regulation of the Procedure of Officers Appointed to Administer Justice in the Lushai Hills framed in the year 1906 in exercise of the same power which, however, stood repealed by the successor enactment.

17. The Lushai Hills District was renamed as the Mizo District comprising the same area and consequently the Lushai Hills District got replaced by the Mizo District in Part A of the Table under Para 20 of the Sixth Schedule to the Constitution. The renaming was effected by the Lushai Hills District (Change of Name) Act, 1954.

18. The Limitation Act, 1963, was legislated by the Parliament and brought into effect on and from 1.1.1964 extending its application to the whole of India except the State of Jammu and Kashmir. It was at this stage that the Governor of Assam in exercise of powers under clause (b) of the sub-para (i) and sub-para (ii) of the para 12 of the Sixth Schedule to the Constitution of India by notification No. TAD/61/12/64 dated 14.3.1966 excluded the operation of the Limitation Act, 1963, in the Tribal areas of Assam specified in Part A of the Table appended to paragraph 20 of the Sixth Schedule to the Constitution of India w.e.f. 1.1.1964. The text of the notification for its cardinality qua the issue under consideration is extracted herein below.

In exercise of the powers conferred by Clause (b) of the sub-paragraph (1) and sub-paragraph (2) of paragraph 12 of the Sixth Schedule to the Constitution of India, the Governor of Assam is pleased to direct that the Limitation Act, 1963 (No. 63 of 1963) shall not apply to the Tribal Areas of Assam specified in Part A of the table appended to paragraph 20 of the Sixth Schedule to the Constitution of India, with effect from the 1st of January, 1964.

19. The applicability of the 1963 Act, amongst others, in the Mizo District was, therefore, barred. No consequent modification or amendment in Rule 21 of the 1937 Rules was, however, occasioned.

The next phase in the process of the ensuing transformation was the enactment of the Northeastern Areas Reorganisation Act, 1971. The Statement of Objects and Reasons of this enactment demonstrate that the legislation was preceded by a decision on principle to grant Statehood to Manipur, Tripura and Meghalaya and to elevate the Mizo District of Assam and the North East Frontier Agency to the Union Territories of Mizoram and Arunachal Pradesh respectively by segregating the corresponding areas from the State of Assam. The preamble of the Act is an index of the above background and objective. u/s 6 thereof, on and from 21.1.1972, the Union Territory of Mizoram came into being comprising of the

territories which immediately before that day constituted the Mizo District in the existing State of Assam. The said provision of the Act mandated that with the formation of the Union Territory of Mizoram on and from the aforesaid date, the Mizo District would cease to form a part of the existing State of Assam. Section 77, however, provided that the new alignment would not bring about any change in the territories to which any law in force immediately before the appointed date (21.1.1972) extended or applied and the territorial reference in such law to the existing State of Assam would until otherwise provided by a competent Legislature or other competent authority construe to mean the territories within that State immediately before the said day. For the purpose of facilitating the application of any law in relation to any of the State or Union Territories formed or established by said Act, Section 79 thereof empowered the appropriate government, before the expiration of two years from the appointed date, to make such adaptations and modifications of law by way of repeal or by way of amendment as was considered necessary or expedient whereupon every such law was to have effect, subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority. The appropriate Government was clarified in the accompanying explanation, inter alia, to be the Central Government in respect of any law relating to a matter enumerated in the Union List or any other law applicable to a Union Territory. Noticeably Sections 77 and 79 specifically provided only for the continuance of the laws in force in the new State or Union Territories formed under the 1971 Act, however, subject to the modifications and adaptations to be caused if necessary by the appropriate Government.

20. As an essential consequence of the above legislation, the words "the Mizo District" stood omitted from the Table to para 20 of the Sixth Schedule to the Constitution by the Government of Union Territories (Amendment) Act, 1971. The Mizo District, therefore, ceased to be a tribal area of the State of Assam by virtue of the above enactments and assumed the status of the Union Territory of Mizoram.

21. Section 13 of the this Act introduced amendments to paras 12B, 20A, 20B and 20C of the Sixth Schedule to the Constitution of India and by the substituted para 12B(b) of the Sixth Schedule, the President was empowered to direct by notification that any Act of Parliament would not apply to any autonomous district or autonomous region in the Union Territory of Mizoram or that such enactment would apply to such district or region or any part thereof subject to any such exception or modification as may be specified. Paragraph 20A of the Sixth Schedule as substituted prescribed dissolution of the Mizo District Council vesting the administrator of the Union Territory of Mizoram amongst others with the power to transfer in whole or in part the assets, rights and liabilities of the Mizo District Council to the Union or any other authority. Para 20B of the Sixth Schedule as amended prescribed that every autonomous region existing immediately before the prescribed date in the Union Territory of Mizoram, would on and from the date be an autonomous district and administrator thereof might

by one or more orders direct such consequential amendments as considered necessary and transfer in whole or part the assets, rights and liabilities of the existing Regional Council to the corresponding new District Council.

22. Accordingly the Administrator of the Union Territory of Mizoram in exercise of the powers conferred by paragraph 20A of the Sixth Schedule to the Constitution made the Dissolution of the Mizo District Councils (Miscellaneous Provision) Order, 1972, whereunder the assets of the dissolved Mizo District Council were transferred to the Successor District Councils, namely, the District Council of the Chakma District, District Council of the Lakher District and the District Council of the Pawi District constituted under the Sixth Schedule to the Constitution. The Chakma District, the Lakher District and the Pawai District, thus, found their way in the Part III to the Table under paragraph 20 of the Sixth Schedule to the Constitution as tribal areas of the Union Territory of Mizoram.

23. The last stage of the evolutionary process witnessed the enactment of the State of Mizoram Act, 1986, whereunder the State of Mizoram was established on and from the appointed date, i.e., 20.2.1987 comprising the territories which immediately before that day constituted the Union Territory of Mizoram. Section 43 thereof prescribed that all laws in force immediately before the appointed date in the Union Territory of Mizoram would continue to be in force in the State of Mizoram until altered, repealed or amended by a competent authority. For the purpose of facilitating the application of any law before the appointed day, the appropriate Government was empowered to make, within two years from that date, such adaptations and modifications of the laws by way of repeal or amendment, as considered necessary or expedient whereupon such laws were to have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority. The appropriate Government for the purpose of the said section was identified to be the Central Government in respect of any law on a matter included in the Union List and the Government of Mizoram in respect of any other law.

As is plainly observable, Section 43 ensured continuance of the existing laws with alterations, amendments, etc., as deemed necessary. Accordingly the State of Mizoram Adaptation Laws Order (1), 1987 and State of Mizoram Adaptation Laws Order (2), 1987, were made ensuring facilitation of the application of the laws already in force in the Union Territory of Mizoram with the adaptations, amendments, modifications and exceptions mentioned therein. By the Constitution (Amendment) Act (67 of 1988), the Lakher District and the Pawi District were replaced by the Mara District and the Lai District respectively. With the above alteration, the tribal areas within the State of Mizoram described in Part III of the Table to paragraph 20 of Sixth Schedule to the Constitution became the Chakma District, the Mara District and the Lai District.

24. The above narration unequivocally proclaims that with the upgradation of the Mizo District as the Union Territory of Mizoram and its severance from the State of Assam, it shed its status of a tribal area of that State and came to be

governed under Article 239 of the Constitution of India to be administered by the President through the Administrator thereof. Logically, therefore, the bar of the applicability of the 1963 Act prescribed by the Governor of Assam by the notification dated 14.3.1996 in exercise of his power under paragraph 12 of the Sixth Schedule to the Constitution of India ceased to have effect the moment the Mizo District was carved out of the tribal areas of the State of Assam.

The 1966 notification being specifically confined in its application to the tribal areas of Assam, the embargo contained in it, in my considered view, therefore, could not by any means, be stretched to the territories which by virtue of the 1971 Act, had been included in the Union Territory of Mizoram. In other words, with the enactment of the 1971 Act, and the formation of the Union Territory of Mizoram, the erstwhile Mizo District stood beyond the purview of the 1966 notification and consequentially the bar on the enforceability of the 1963 Act thereto got effaced. The attention of this Court has not been drawn to any notification, order or regulation of the President or the Administrator of the Union Territory of Mizoram or the Governor of the State or any other competent authority as the case may debarring the applicability of 1963 Act to the areas constituting the Union Territory or the State of Mizoram or to any part thereof forming the tribal areas under the Sixth Schedule or in any manner curtailing, excepting or modifying the extent of its application as decreed by the Parliament by Section 2 thereof in the above area. The clear precept extending the applicability of the 1963 Act to the whole of India except the State of Jammu and Kashmir does not admit of, in my view, any presumption or inference that the bar contained in the 1966 notification vis-a-vis the tribal areas of Assam would ipso facto render the provisions thereof unenforceable in the State of Mizoram or any part thereof. In absence of clear and explicit Legislative mandate to the contrary assumption of such an embargo would be wholly conjectural and, thus, manifestly permissible in law.

The related provisions of the 1971 Act and the State of Mizoram Act, 1986, with regard to the continuance of the existing laws, cannot by any means, be demonstrative of the inapplicability of the 1963 Act, the 1966 notification being the only basis there for. To hold so would be to ignore the march of events with consequential implications and manifestations in the contemporaneous legislations.

25. A plain reading of Section 77 of the 1971 Act makes it manifest that the creation of the States and the Union Territories under Part II thereof would not have the effect of bringing about any change in the territories to which any law in force before the appointed date, i.e., 21.1.1972 extended or applied and that the territorial reference in any such law to the existing State of Assam or the autonomous State of Meghalaya or the Union territory of Manipur or the Union territory of Tripura or the North-East Frontier Agency was construed to mean the territories within that State or autonomous State or Union territory or the Agency as immediately existing before the appointed day until otherwise provided by a

competent Legislature or other competent authority. Section 79 was enacted for facilitating the application of any law in relation to any of the States or Union Territories formed or established by the provisions of Part II by making necessary adaptations or modifications thereto by the appropriate Government as may be considered necessary or expedient so that every such law with the adaptations and modifications would have perfect until altered, repealed or amended by a competent Legislature or other competent authority.

Section 43 of the State of Mizoram Act, 1986, is also with the intention of continuing the existing laws in force in the Union territory of Mizoram before the appointed date in the State of Mizoram until altered, repealed or amended by a competent Legislature or other competent authority. Sub-section (2) empowers the appropriate-Government for facilitating the application of any law in the State of Mizoram made before the appointed day, to make adaptations and modifications whereupon such law was to have effect subject to the adaptations and modifications until altered, repealed or amended by a competent Legislature or other competent authority.

26. The clear and explicit language embodied in the above provisions bears out the legislative intention of designing the transitional arrangement for effectuating the continuance of the existing laws in the territories upgraded as States or Union territories with adaptations or modifications to suit local conditions. No intendment of the law makers to perpetuate the exclusion of any law not brought into force in those areas before the appointed date is even remotely decipherable.

While Clause (a) of para 12B of the Sixth Schedule to the Constitution of India, after the Government of Union Territories (Amended) Act, 1971, rendered a law made by a District Council or a Regional Council in the Union territory of Mizoram made with respect to any matter specified in sub-para (1) of para 3 or a Regulation made by a District Council or a Regional Council under paragraph 8 or paragraph 10 repugnant to the provisions of law made by the Legislature of the Union Territory of Mizoram void to the extent of repugnancy, Clause (b) thereof empowered the President to direct by a notification to exclude the operation of any Act of Parliament to any autonomous district or autonomous region in the Union Territory of Mizoram or to extend such enactment to such district or region or any part thereof subject to such exceptions or modifications to be specified. Clause (b) as above, therefore, clearly mandated the requirement of a notification by the President to exclude the applicability of an Act of Parliament to an autonomous district or an autonomous region in the Union territory of Mizoram signifying thereby that in absence of any notification subject to the extant clause of the Act of Parliament the same would apply to such autonomous district or region as well. The same analogy can be drawn vis-a-vis the power of the President to make an Act of Parliament applicable to such district or region subject to the exceptions or modifications as he would specify in the related notification. The same provision in substance has been retained in the existing Clause (c) of para 12B to the VIth Schedule to the Constitution, the words "Union

territory of Mizoram" being replaced by the words "State of Mizoram". From the above provision of the VIth Schedule as well as it is not possible to discern the intention of the Constitution makers that any law not applicable to any autonomous district or region as contemplated therein before the Constitution of the Union Territory of Mizoram would continue to remain excluded in its operation unless enforced by an overt legislative action.

27. Exclusion of applicability or enforceability of a statutory enactment cannot be readily or lightly inferred. It has to be apparent on the face of the legislation or indubitably determinable from the statements and objects of reasons thereof. The extant clause of a statute is an index of the scope and spread thereof and either the makers of the legislation or any authority specially empowered can permissibly curtail its amplitude. The extant clause of the 1963 Act extends it to the whole of India except Jammu and Kashmir. Had it been the intention of the Parliament to except the application thereof either to the territories now constituting the State of Mizoram or any part thereof or its tribal areas there would have been evident indications therein. To read any inhibition in the matter of application of the 1963 Act to the State of Mizoram or any part thereof as suggested on behalf of the appellant would amount to judicial legislation which is irrefutably impermissible.

F.A.R. Bennion in his celebrated work "Statutory Interpretation", recorded with the elemental principles on extent and application of a statutory enactment, thus,

Territorial extent: Basic rule -

Although an enactment may be expressed in general terms, the area over which it is law excludes territories where Parliament lacks jurisdiction. It also excludes territories for which the legislator did not intend to legislate.

Territorial extent: meaning of "extent"

The extent of an Act is the geographical area throughout which it is law.

Application of an enactment

Unless the contrary intention appears and subject to any privilege, immunity or disability arising under the law of the territory to which an enactment extends (that is within which it is law) and to any relevant rule of private international law, an enactment applies to all persons and matters within the territory to which it extends, but not to any other persons and matters.

28. A word of caution in the above vein was sounded in *Dadi Jagannadham Vs. Jammulu Ramulu and Others*, in the following words.

The settled principles of interpretation are that the Court must proceed on the assumption that the Legislature did not make a mistake and that it did what it intended to do. The Court must, as far as possible, adopt a construction which will carry out the obvious intention of the Legislature. Undoubtedly, if there is a defect or an omission in the words used by the Legislature, the Court would not

go to its aid to correct or make up the deficiency. The Court could not add words to a statute or read words into it which are not there, especially when the literal reading produces an intelligible result. The Court cannot aid the Legislature's defective phrasing of an Act, or add and mend, and, construction, make up deficiencies which are there.

29. That when the words of a statute are clear, the Court ought not to take up on itself the role of a law maker was highlighted by the Apex Court in J.P. Bansal Vs. State of Rajasthan and Another, The relevant excerpts are extracted herein below.

It is said that a statute is an edict of the Legislature. The elementary principle of interpreting or construing a statute is to gather the mens or sentential legis of the Legislature....

Where, however, the words were clear, there is no obscurity, there is no ambiguity and the intention of the Legislature is clearly conveyed, there is no scope for the Court to innovate or take upon itself the task of amending or altering the statutory provisions. In that situation the Judges should not proclaim that they are playing the role of a law-maker merely for an exhibition of judicial valour. They have to remember that there is a line, though thin, which separates adjudication from legislation. That line should not be crossed or erased.

30. Having regard to the determinate unambiguous and unequivocal language employed in the extent clause of the 1963 Act, in my view, there is no scope what so ever to suppose that the interdiction on the applicability thereof occasioned by the 1966 notification was intended to be continued in the territories comprising the Union territory of Mizoram and now the State of Mizoram.

In my considered view, therefore, with the elevation of the Mizo District to the Union territory of Mizoram, the 1966 notification ceased to have any force vis-a-vis the areas comprising the erstwhile Mizo District and the 1963 Act being a Central Legislation in absence of any other impediment as conceived of in the Sixth Schedule to the Constitution of India or otherwise applied proprio vigore without any reservation to the areas now forming the State of Mizoram. In other words, the 1963 Act, thus, became enforceable in the territories constituting the erstwhile Mizo District and now the State of Mizoram. The non-inclusion of the 1963 Act in the list, of Central Acts applicable to the State of Mizoram and the inclusion thereof in the list of such Acts, applications whereof are barred, being traceable only to the 1966 notification are inconsequential in the face of the constitutional and historical background of the relevant legislations noticed hereinabove. The enactment of the 1963 Act is an exercise of the legislative powers vested in the Parliament and having regard to the extent of its application any fetter on its applicability in the State of Mizoram in absence of any restriction as conceived of under the Sixth Schedule or otherwise would amount to unauthorized truncation of such constitutional empowerment.

The contention of the learned Counsel for the appellant based on the Explanation

of "tribal areas" appearing u/s 1(3) of the CPC is of no consequence as the same is in the context of defining the limits of the applicability of the Code and no analogy can be drawn for resolving the issue in hand. Similarly reference to Section 10(26) of the Income Tax Act, 1961, is also of no relevance vis-a-vis the question posed. The embargo contained in Article 371G vis-a-vis the State of Mizoram is also not attracted qua the 1963 Act in view of the subject-matter of the statute as well as the contextual facts.

31. This Court in *U. William Mynsong* (supra), held against the application of the 1963 Act to the tribal areas of the State of Meghalaya accepting the contention based on the 1966 notification. In the fact situation of that case it was held that, the notification continued to apply to the State of Meghalaya and by virtue of Sections 77 and 79 of the North-Eastern Areas Reorganization Act, 1971, the notification continued to be in force barring the application of the 1963 Act to the tribal areas of the State of Meghalaya. With utmost respect, I cannot persuade myself with the line of reasoning recorded in the said decision. The 1966 notification in my considered view cannot be construed to be a law in force as visualized by Section 79 of the 1971 Act to be continued as provided thereunder.

The 1966 notification, however, did not present itself to be considered by this Court in *Temjankaba and Ors. v. Temjanwati and Ors.* (1991) 2 GLR 200, where the question of applicability of the 1963 Act to the State of Nagaland fell for consideration. This Court, having regard to the extent clause of; the, 1963 Act answered it in the affirmative observing that the State of Nagaland being part of India, the Act was enforceable there.

This Court in *Lalchawimawia and others* (supra), had an occasion to dwell on the same topic. Negating the contention against the applicability of the 1963 Act based on the 1966 notification/this Court returned a finding that in absence of a specific notification issued by the Government of Mizoram, the law of limitation was applicable. I respectfully concur with the said view, however, for the reasons enumerated hereinabove in addition.

32. Turning to the recorded facts, the cause of action for the suit involved had arisen in the years 1990 and 1991 but was filed only in the year 1998. Having regard to the reliefs sought for, the suit in terms of the 1963 Act, was clearly barred by limitation at the time of its institution. Though Mr. Lalramzuava has tried to save the situation by contending in the alternative that even if the law of limitation is applicable, the respondent/defendants reply to the Section 80 CPC notice had generated a fresh period of limitation, I am unable to accept the same. Cause of action generically constitutes all that bundle of facts which a plaintiff has to necessarily traverse and prove to be entitled to the reliefs claimed in a suit. Having regard to the frame and character of the suit, it is more than apparent that the cause of action there for cannot be stretched beyond 1991 and, therefore, the suit on the face of the records was barred at the time of its filing.

33. In view of the determination on the question of applicability of the 1963 Act rendering the suit barred by time, I do not consider it necessary to deal with the rival contentions on the merits vis-a-vis the pleadings and evidence on record. The conclusion of the learned Court below that the suit is barred by limitation is, therefore, upheld.

34. Before parting, this Court places on record its appreciation for Shri P. Chakraborty, for his commendable efforts in compiling the Mizoram Compendium of Laws with other useful informations referred to, for preparing this judgment.

In the wake of the above, the appeal fails and is, thus, dismissed. No costs.