
(2016) 05 GAU CK 0090
In the Gauhati High Court
Case No : R.F.A. No. 1 of 2009

Union of India

APPELLANT

Vs

Lalparmawii

RESPONDENT

Date of Decision : 05-05-2016

Acts Referred:

Citation : (2016) AIR(Gauhati) 120 : (2016) 6 GauLJ 645 : (2017) 1 GauLR 289

Hon'ble Judges : Michael Zothankhuma, J.

Bench : Single Bench

Advocate : Mr. B. Pathak, CGC, for the Appellant; Mr. A. K. Rokhum, Addl. Advocate General, M. C. Ialamzauva, Sr. Advocate, M.A.R. Malhotra, Mr. K. Laldinliana, Mrs. K. Lalramnghaki, Advocates, for the Respondent

Final Decision : Dismissed

Judgement

Michael Zothankhuma, J. (Cav) - Heard Mr. B. Pathak, counsel for the appellants in RFA No. 1 of 2009 & RFA No. 2 of 2009. Also heard Mr. C. Lalramzauva, learned senior counsel assisted by Mrs. K. Lalramnghaki, counsel for the private respondents/plaintiffs in RFA No. 1 of 2009 and RFA No.2 of 2009 and Mr. A.K. Rokhum, learned Addl. Advocate General for the State Government in RFA No. 1 of 2009 & RFA No.2 of 2009.

2. These 2 (two) cases are being disposed of by a common judgment.

3. The case in brief is that the private respondents/plaintiffs are owners of lands covered by Land Settlement Certificates located within the Bawngkawn Brigade area. The Armed Forces occupied the petitioners' lands from 1966 without the owners consent. The private respondents/plaintiffs were given rental compensation for occupation of their lands by the Armed Forces for the period from 1966 to 31.8.1986. However, as no rental compensation had been given by the Armed Forces for occupation of the private respondents lands for the subsequent period from 1.9.1986, the private respondents/plaintiffs filed Civil Suit No. 20 of 2006 and Civil Suit No. 21 of 2006 praying that the plaintiffs

should be given rental compensation for occupation of their lands by the Armed Forces with effect from 1.9.1986 till vacant possession of their lands were given.

4. The appellants herein submitted their written statements dated 1.12.2006 wherein they admitted in para 8 that the private respondents' lands were under the occupation of the Army and a proposal for de-hiring was under way, which would be affected as soon as approval from the Armed Authority/Defence Ministry was obtained.

5. The Court of the learned Senior Civil Judge, Aizawl after taking evidence of the parties passed its Judgment & Order dated 14.5.2008 in Civil Suit No. 20 of 2006 directing the appellants to make payment of rental compensation for occupation of the private respondents' lands by the Armed Forces for the period from 1.9.1986 till the suit lands were de-hired by the Union of India. A similar direction was passed by the Court of the Senior Civil Judge, Aizawl in Civil Suit No. 21 of 2006 vide Judgment & Order dated 22.5.2008.

6. After passing of the Judgment & Orders in Civil Suit No. 20 of 2006 & Civil Suit 21 of 2006, the entire lands occupied by the Armed Forces in the Bawngkawn Bridge area, totalling 34.704 acres was de-hired by the Armed Forces w.e.f. 9.9.2008.

7. The appellants herein have filed the present RFA No. 1 of 2009 & RFA No. 2 of 2009 against the Judgment & Order dated 14.5.2008 passed in Civil Suit No. 20 of 2006 and Judgment & Order dated 22.5.2008 passed in Civil Suit No. 21 of 2006 respectively.

8. Mr. B.Pathak, learned counsel for the Union of India/appellants submits that during the proceedings of the present appeals, this Court vide Order dated 26.4.2010 had directed the Land Revenue & Settlement Department, under Order 41, Rule 27 CPC, to make a spot verification to ascertain whether the plaintiffs lands was being occupied by the Armed Forces. In pursuant to the Order dated 26.4.2010 passed by this court, a Joint verification was conducted by involving officers of the Land Revenue & Settlement Department, Govt. of Mizoram and representatives of the Defence Estate Officer, Guwahati.

9. The findings of the Joint verification report dated 7.6.2010 was to the effect that the lands of the plaintiffs/private respondents was under the occupation of the Army till it was de-hired in September, 2008 when the lands were handed over to the State Government by the Army authorities.

10. This Court vide its Order dated 29.9.2011 made a direction for a fresh Joint/spot verification of the Bawngkawn Brigade area to ascertain whether the plaintiffs' lands were occupied by the Armed Forces from 1966 as the Court held that the earlier verification report dated 7.6.2010 was not exhaustive and that it did not bear the signatures of the Officers and representatives of the parties who participated in the Joint verification.

11. In pursuant of the Order dated 29.9.2011, a fresh Joint verification was

conducted on the lands of the petitioners which held in it's report dated 16.11.2011:-

"The Spot Verification revealed that the plots of lands belonging to the petitioners in WP(C) No. 14/2010, 70/2010, RFA No. 1/2009 & RFA No. 2/2009 did not fall within the Blue Print map area but lands were adjacent to the area occupied by Army."

12. Mr. B. Pathak, the appellants counsel submits that a perusal of the second Joint spot verification report dated 15.11.2011 clearly goes to show that the plaintiffs' lands were not occupied by the Army and as such, there is no question of payment of rental compensation to the plaintiffs. The appellants counsel also states that the plaintiffs have been represented by Lalparmawii (Civil Suit No.1 of 2006), who is not a land owner. He submits that as per Order 1, Rule 1 CPC, Lalparmawii (plaintiff No.1/respondent No.1 in Civil Suit No.1 of 2006) cannot be a party to the suit and also cannot act on behalf of the land owners/other plaintiffs without their being any Power of Attorney executed in her favour, as required under Order 3, Rule 2 of the CPC.

13. The appellants counsel also submits that the letter of authority given by one Jasmine Ralte (plaintiff/respondent No.3), land owner in favour of Lalparmawii (Civil Suit No.1 of 2006) is not permissible inasmuch as, Jasmine Ralte has also given her signature on behalf of the lands owned by her deceased brothers/deceased father, though there is no evidence to show that she is the legal heir of those persons.

14. The appellants counsel also submits that the plaintiffs did not produce the original land records prior to or during the evidence stage as required under Section 91 of the Evidence Act read with Order 13 of CPC.

15. The appellants counsel also submits that though payment has been paid to the plaintiffs for occupation of their lands upto 31.8.1986, the same does not amount to conclusive evidence that the plaintiffs' lands had been occupied by the Armed Forces subsequent to 31.8.1986. The appellants counsel submits that for the period from 1966 to 31.8.1986, the land in question measuring 34.704 acres was occupied by the Ministry of Home Affairs and that the Ministry of Defence took over possession and control of the said lands from 1.9.1986. The appellants counsel submits that there could have been withdrawal of the Armed Forces from occupation of parts of the lands which were earlier occupied. He submits that in view of the fact that the Armed Forces had withdrawn from occupying parts of the Bawngkawn Brigade area, verification had been ordered by this court. He submits that the two verification reports made on the orders of this Court not being conclusive, a 3rd verification report should be called for to ascertain whether the plaintiffs' lands were occupied by the Armed Forces from 1.9.1986 till the date of de-hiring of the lands of the Bawngkawn Brigade area, which was done on 9.9.2008.

16. The appellants counsel submits that Lalparmawii, the (plaintiff No.1 in Civil

Suit No.20 of 2006) has given her name as "Lalparmawii, D/o Thana" in the money receipt issued by the State Government, while receiving the rental compensation for occupation of the plaintiffs' lands by the Armed Forces for the period from 1966 to 31.8.1986. However, the plaintiff No.1 in Civil Suit No.20 of 2006 has given her name as "Lalparmawii, W/o Lalrinawma Ralte". The appellants counsel submits that there is a doubt cast on whether Plaintiff No.1 in the money receipt and in the Civil Suit No.20/2006 are one and the same person.

17. The appellants counsel also submits that the Land Settlement Certificates which were issued in Civil Suit No. 20 of 2006 arose out of Periodic Patta No. 304 of 1981. The area of the LSCs when added up amounts to 162720 sq.feet, while payment of rental compensation payable to the plaintiffs in Civil Suit No. 20 of 2006 was for the area of 154944 sq.feet, as claimed by the State government. The appellants counsel submits that there is a discrepancy in the area of the lands covered by the LSCs and in the area for which rental compensation is being claimed by the State Government.

18. The appellants counsel submits that in respect of the LSCs pertaining to Civil Suit No. 21 of 2006, which are born out of Periodic Patta No.145 of 1977, the total area of the LSCs is 53,568 sq.feet. However, the area of the Periodic Patta is 72000 Sq.feet. The appellants counsel submits that this discrepancy shows that the Armed Forces could not have been occupying an area more than 53,568 sq.feet, though the area claimed for rental compensation is 72,000 sq.feet.

19. Mr. C. Lalramzauva, learned senior counsel appearing for the plaintiffs/respondent Nos. 1 to 16 submits that the plaintiffs have been given rental compensation from 1966 till 31.08.1986 for occupation of their lands by the Armed Forces. He also submits that there was no de-hiring of the lands of the plaintiffs prior to 09.09.2008. The evidence adduced by the parties to the dispute clearly shows that Bawngkawn Brigade area, which was occupied by the Armed forces was never de-hired by the Army authorities prior to 09.09.2008. He also submits that this fact has not been denied by the Union of India and the State Government in their written statements or even during the present appeal. The counsel for the plaintiffs/ private respondent also submits that the first verification report came to the conclusion that the plaintiffs' lands were occupied by the Armed forces. He also submits that though the second Joint spot verification report was to the effect that the plaintiffs' lands were not within the blue print area but adjacent to the area occupied by the Army, the same only goes to show that the Army had not constructed or were physically living directly on top of the plaintiffs' lands, but they were in constructive possession of the lands.

20. Mr. C. Lalramzauva, learned senior counsel also submits that Lalparmawii, the plaintiff No. 1 in Civil Suit No. 20/2006 has been made agent/representative of the other plaintiffs due to the fact that the State respondents had put her name in a representatives character for all the plaintiffs for assessing the rental compensation payable to the plaintiffs. This, he submits is clearly evident in the

letter dated 12.04.199 issued by the Secretary to the Government of Mizoram, Land Revenue & Settlement Department, which has been addressed to the Defence Estate Officer, Gauhati Circle, P.O Silpukri. He also submits that an authorisation letter has been executed by all the other plaintiffs in favour of the plaintiffs Lalparmawii in C.S No. 20/2006 as per Order 1, Rule 12 CPC, wherein she has been allowed to act and appear on behalf of all the plaintiffs in that case, for the claims made for payment of rental compensation. This document is exhibited as Exhibit No. 25.

21. The senior counsel appearing for the plaintiffs/private respondents has also submitted that the appellants in paragraph Nos. 7 & 8 of the written statement did not deny the fact that they were in occupation of the plaintiffs' lands and that the lands were not de-hired at the time of filing the written statement, which was on 01.12.2006. He, thus, submits that the appellants cannot now turn around and deny that they are not in occupation of the plaintiffs' lands till the time it was de-hired on 09.09.2008.

22. The senior counsel for the plaintiff also submits that as the appellants have not objected to the documents furnished by the plaintiffs at the time of submission of plaint and at the time of taking evidence, the appellants could not now be allowed to question the genuineness of the documents submitted by the plaintiffs. In this regard, the learned senior counsel has relied upon the Judgment passed by the Full Bench of the Andhra Pradesh High Court in the case of The Land Acquisition Officer, Vijayawada Thermal Station v. Nutalapati Venkata Rao reported in AIR 1991 A.P 31.

23. The senior counsel for the plaintiff/respondent Nos. 1 to 16 has also submitted that as per Section 21 of the Mizoram Civil Court's Act, 2005 and its amendments, the CPC is applicable in the State of Mizoram only in spirit and has submitted that the Apex Court in the case of Westarly Dkhar and Others v. Sehekaya Lyngdoh reported in (2015) 4 SCC 292 confirmed Rule 28 of the United Khasi Hills, Jantia Autonomous District (Administration of Justice) Rule, 1953, wherein it held the applicability of the Code of Civil Procedure under the said rules could be exercised only in spirit.

24. The senior counsel for the plaintiffs/private respondent submits that the appellants were the defendants in the Civil Suit and could have questioned the plaintiffs on the various facets/points that the appellant is now trying to urge before this Court. He submits that the appellants could have countered the plaintiffs' plaint in cross examination and during the time of defence evidence. He submits that as they have not tested the plaintiffs' claim even in the evidence stage in the Trial Court, the appellants cannot be now allowed to question the veracity of the plaintiffs' documents as the statement of the plaintiffs in their evidence and pleadings, which are not denied, have to be deemed to be admitted facts. In this regard, he has relied upon the Judgment of the Apex Court in Pushpa Devi Bhagat v. Rajinder Singh and Others reported in (2006) 5 SCC 566.

25. I have heard the learned counsels for the parties.

26. The issue at hand is whether the appellants are liable to pay rental charges to the private respondents for alleged occupation of their lands for the period from 1.9.1986 to 9.9.2008. The further question is whether the appellants were in occupation of the private respondents' lands for the above said period.

27. The trial Court has on the evidence led by the private respondents passed the impugned judgment & order dated 14.5.2008 in Civil Suit No. 20/2006 and judgment & order dated 22.5.2008 in Civil Suit No. 21/2006 directing the appellants to pay rental charges to the private respondents for the period of occupation of their lands from 1.9.1986 till the date of de-hiring of their lands. It may be observed here that the appellants and the State Government did not lead any evidence in the trial Court.

28. This Court however ordered verification of the lands to ascertain whether the private respondents' lands were in occupation of the Army authority vide order dated 26.4.2010. The verification report dated 7.6.2010 passed in pursuant to the order dated 26.4.2010 reported that the lands of the private respondents were under the occupation of the Army till it was de-hired in September, 2008. A second verification report was called for by this Court vide order dated 29.9.2011 and in the second report dated 16.11.2011, it was found that the private respondents' lands did not fall within the blue print area, but their lands were found to be in an adjacent area outside the blue print sketch, that is outside the area occupied by the Army. Thus, there is a contradiction between the two verification reports dated 7.6.2010 and 16.11.2011. Though the appellants' counsel had made a prayer for direction to institute a fresh spot verification, this Court is not inclined to accede to the prayer of the appellants' counsel in view of the fact that the Army Authorities have already left the area after it was de-hired on 9.9.2008. No fruitful report can be made at this stage. Accordingly, this Court proposes to dispose of the present matter on the basis of the evidence already adduced and on the basis of the materials on record without taking into consideration the reports dated 7.6.2010 and 16.11.2011

29. The paragraphs 8, 9 and 10 of the written statement of the appellants in the Civil Suits which are similar, are reproduced below:-

"8. That with regard to averment made in paragraph 2 of the plaint, I say that the land was under occupation of the army and a proposal for dehiring is being underway and dehire will be effected as soon as approval from the Army Authority/Defence Ministry is obtained.

9. That with regard to averments made in paragraph 3 of the plaint I say that rental charges of land from September 1986 to December 1997 and also for the period from January 31st 1998 to 31st December 2005 has been released to the Secretary to the Government of Mizoram Land Revenue Department Government of Mizoram (hereinafter referred to as the defendant No-2) for disbursement to the rightful owner of lands and the State Government will disburse the same.

10. That with regard to averments made in paragraph 4 of plaint, I say that in the year 1993, a joint survey was taken up by the representatives of the Union of India and State Government to find out whose lands were actually under Army occupation and on the basis of the findings of the joint-survey verification rental compensation to the tune of Rs. 5,19,93,771/- was worked out, and the Union of India accorded sanction to the State Government through the defendant No-2 herein. Mention may be made that the plaintiffs who are not found in the list prepared by the competent authority have no Locus Standi to get rental compensation in as much as the said list being a valid document is beyond question."

30. The contents of the written statement of the appellants goes to show that the appellants had admitted that the lands were under the occupation of the Army, in view of the fact that paragraph 2 of the plaint states that the lands of the plaintiffs/private respondents continued to be under the occupation of the Army even after 1986 and till date.

31. The written statement of the appellants at paragraph 10 clearly shows the stand of the appellants, which is to the effect that in the year 1993, a joint survey was taken up by the representatives of the Union of India and the State Government to find out lands which were actually under the Army occupation and that the lands of the plaintiffs/private respondents were not found in the said list prepared on the basis of the survey held in the year 1993. However, as stated above, no evidence was led by the appellants in the trial Court.

32. The written statement of the State Government/respondent Nos. 17 to 20 in the Civil Suits is to the effect that they have not denied that the lands of the plaintiffs/private respondents continued to be under the occupation of the Army even after 1986 till the filing of the suits. It is also the stand of the State Government that a Board of Officers was constituted consisting of representatives from the State Government, the Army and Defence Estate. The Board of Officers surveyed all Army occupied areas in Mizoram and prepared a blue print in 1993 in which the appellants' name have not been listed. The State Government/respondents at paragraph 16 of the written statement have also stated as follows:-

"16. That with regards to the contents of para no. 11 of the plaint, the answering defendants would like to state that the Government of Mizoram could not give payment to the plaintiffs although they had already received the same under the Ministry of Home Affairs because their names are not found in the Blue Print Brigade Area which is the only document jointly accepted by the Government of Mizoram as well as the Government of India, Ministry of Defence. Moreover, the proposal of the State Government dated 12-4-1999 was not accepted by the Government of India, Ministry of Defence as it was found defective. It may also be pointed out that as always insisted by the Government of India, Ministry of Defence, a fresh Joint Team has been constituted. This Joint Team in 2005 visited all the Army occupied lands and as per their findings, the finding of the Board of

Officers 1992-93 with regard to the exact area of Army occupied land in Mizoram is 211.033 acres is correct though they have detected some arithmetical error. This means that the proposal of the State Government dated 12-4-1999 based on the area of 242.358 acres was grossly defective. Therefore, the Government of India, Ministry of Defence could not accept the proposal dated 12-4-1999 made by the State Government. Hence, there is absolutely no cause of action in favour of the plaintiffs and against the answering defendants."

33. Thus, the question to be decided in the present case is as to whether the appellants had occupied the lands of the private respondents after 31.8.1986, when the parcel of land occupied by the Ministry of Home Affairs was handed over to the Ministry of Defence.

34. The evidence of the private respondents shows that the private respondents were given rental charges for occupation of their lands by the Armed forces for the period from 1.9.1986 to 31.12.1997. This fact is not denied by the State Government/respondents and the appellants in their written statements. In fact, the State Government/respondents in their written statement have stated that "Even the plaintiffs were given rental charges amount to Rs. 16 lakhs in the name of the plaintiff No. 1". The fact that the Ministry of Home Affairs had handed over 34.704 acres of land to the Ministry of Defence in the year 1986 is also an admitted fact. Though the private respondents may not have found mention in the blue print sketch made by the Board of Officers in 1993, there is no evidence to show that the Ministry of Defence had de-hired any portion of the area totalling 34.704 acres of land handed over to them by the Ministry of Home Affairs prior to 9.9.2008. It is an admitted fact by the parties that there was no order or letter issued by the appellants or the State Government de-hiring any portion of the 34.704 acres of land prior to 9.9.2008. Thus, it has to be held that the Ministry of Defence, through its Armed forces were in constructive possession of the private respondents' lands till the date of de-hiring, which is 9.9.2008. It is also to be noted that the appellants in their written statements had admitted that the private respondents' lands were under the occupation of the Army and a proposal for de-hiring was underway, which would be effected as soon as approval from the Army Authority/Defence Ministry is obtained.

35. These written statements submitted by the appellants in the Civil Suits show that the same was made on 1.12.2006 and submitted to the trial Court on 4.12.2006. Thus, the appellants have admitted in their written statements made in the year 2006 that they were still in occupation of the private respondents' lands. This clearly shows that despite the names of the private respondents not being mentioned in the blue print sketch map made in 1993, the lands of the private respondents were occupied by the Army even on December, 2006. This occupation/possession of the private respondents land may not have been actual possession but would certainly be constructive possession due to reasons stated above.

36. In view of the further fact that no evidence was led by the appellants and the

State Government in the trial Court, the averments made by appellants in their written statements have to be considered by this Court. In *Pushpa Devi Bhagat v. Rajinder Singh and Others* reported in (2006) 5 SCC 566, the Apex Court has held that-

"No other evidence being led, the necessary conclusion is that the defendants admitted the plaintiffs' claim and merely sought time to vacate".

With regard to the appellants counsel's contention that there is a discrepancy in the area allegedly being occupied by the Armed Forces and the area being claimed for payment of rental charges, i.e, in the case of Civil Suit No. 20/2006, the area of the LSC adds upto to 162720 sq.ft, while the rent has been calculated for 154944 sq.ft. In Civil Suit No. 21 of 2006, the area of the LSC is 53,568 sq. ft, while the area claimed is 72,000 sq.ft. This aspect of the matter is not being considered as the appellants have not made any such averment in their written statements before the Trial Court or in the Memorandum of appeal submitted before this Court.

37. The further question that has to be decided is whether the learned trial Court was correct in awarding rental charges for a period from 1.9.1986 to till the date of de-hiring of their lands and whether it was correct in holding that the suit was not barred by limitation. In this respect, the appellants' cause of action arose in September, 1986 and continued from time to time on nonpayment of their rental charges by the appellants. In the case of *Kamala Bakshi v. Khairati Lal* reported in 2000 (3)SCC 681, the appellant, issued a demand notice dated 19.8.1992 to the respondent in respect of arrears of rent from 28/3/1060 to 28.7.1992. The tenant respondent paid the rent due for the 3 (three) years preceding 1.9.1992 and denied the liability to pay any arrears for the earlier period. The appellant then filed a petition before the Additional Rent Controller. The Additional Rent Controller dismissed the petition holding that as the respondents had paid arrears of rent for the period of 3 (three) years immediately preceding the demand notice and as the arrears of rent for the rest of the period were not legally recoverable, there was no cause of action for the appellant to file the petition. The appellant filed an appeal in the High Court wherein it was dismissed. The appellant then filed an appeal in the Supreme Court, which was dismissed. The Apex Court while dismissing the appellants appeal held that for recovery of arrears of rent, Article 52 of the Limitation Act prescribes a period of 3 (three) years from the date the arrears become due.

In the present case the monthly rent became due at the end of each month. Though the private respondents have made a claim for payment of monthly rent from 1.9.1986 till the date of vacation of the land by the appellants, Civil Suit Nos. 20 of 2006 and 21 of 2006 have been filed only on 21.6.2006 & 28.6.2006 respectively.

38. The claim of the private respondents for recovery of arrears of rent prior to 22.6.2003 (Civil Suit No. 20 of 2006) and 29.6.2003 (Civil Suit No.21 of 2006) is

thus not enforceable in a Court of law for having become barred by limitation. No doubt the appellants have a liability regarding payment of rent prior to the dates mentioned above. However, the arrears of rent prior to the said dates are not legally recoverable.

39. The learned Trial Court had come to a finding that the Civil Suits filed by the private respondents were within the time limit, in view of the fact that other land owners had been given arrears of rent in the year 2004 for the period of rent from 1.9.1986 to 31.12.1997. The learned Trial Court thus held that as the Civil suits had been filed within 3 (three) years from the year 2004, the Civil Suits were within the limitation period. However, in view of the decision of the Apex Court in *Kamala Bakshi v. Khairati Lal* (supra), the cause of action having arisen every month on which the private respondents were not given their rental compensation, the private respondents do not have any enforceable right for claiming their arrears of rent prior to 3 (three) years of filing the Civil Suits. Merely because the authority has given rental charges to another similarly situated person cannot be a ground for coming to a finding that the limitation period starts a-fresh from the date other similarly situated persons have been given rental charges.

40. In view of the law laid down by the Apex Court, I find that the learned trial Court erred in passing a decree for payment of rental charges from 1.9.1986 till the date of de-hiring. As the Civil Suit No. 20/2006 was filed on 21.6.2006, the private respondents/plaintiffs in Civil Suit No. 20/2006 are liable to receive rental charges from 22.6.2003 till date of de-hiring of their lands, i.e. 9.9.2008. In respect of the private respondents/plaintiffs in Civil Suit No. 21/2006, which was filed on 28.6.2006, they are liable to receive rental charges for the period from 29.6.2003 till date of de-hiring of their lands i.e. 9.9.2008. Accordingly, the State Government/respondents are directed to assess the rental charges payable to the private respondents for the period mentioned above.

41. The appellants have not submitted any document or led any evidence to show that they had de-hired the land of the private respondents prior 9.9.2008. It is also not the case of the appellants that they had de-hired the land of the private respondents prior to 9.9.2008. The only submission of the appellants counsel is that they were not in occupation of the private respondents land. In the absence of any document or any evidence being led by the appellants to show that they had de-hired the lands of the private respondents land prior to 9.9.2008, it has to be implied that the appellants were in constructive possession of the private respondents land till 9.9.2008. It should also be kept in mind that the appellants had taken over the same area of land occupied by the Ministry of Home Affairs earlier. The Ministry of Home Affairs had paid the rent for occupation of the private lands till 31.8.1986. Thus, there can be no other conclusion except the fact that the appellants were in constructive occupation of the private respondents' lands till it was de-hired on 9.9.2008.

42. In view of the reasons stated above, the judgment and order dated

14.5.2008 passed in Civil Suit No. 20/2006 and judgment and order dated 22.5.2008 passed in Civil Suit No. 21/2006 and modified to the extent indicated above. The Appeals are accordingly dismissed.

43. Accordingly, it is decreed that:- 1)the State Government/respondents, will and more particularly the Deputy Commissioner, Aizawl shall assess the rental charges payable to the private respondents in Civil Suit No. 20/2006 w.e.f. 22.6.2003 till 9.9.2008 and for the private respondents in Civil Suit No. 21/2006 w.e.f. 29.6.2003 till 9.9.2008 within a period of 3 (three) months from the date of this order and 2) the appellants will pay to the private respondents the rental charges as assessed by the Deputy Commissioner, Aizawl within 3 (three) months from receipt of the said assessment order. The Registry is directed to issue the decree as stated above.

44. Send back the LCRs.