GAHC030000492026

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

Case No. : I.A.(Civil)/23/2026

Smt. Grace Lalmalsawmi
D/o C. Dothanga, R/o Thakthing Dam Veng, Aizawl District, Mizoram

VERSUS

Sh. Sher Bahadur and 12 Ors.
S/o Amar Bahadur (L), R/o Tanhril, Aizawl, Mizoram 2:Smt. Sangluri alias Luri Devi (L)

3:The State of Mizoram represented by Secretary to the Government of Mizoram

4:The Director

5:The Settlement Officer

6:Smt. Lalzami (Now Dead) R/b her daughter Lalthlirveli

7:Smt. Lalthlirveli

8:Sh. Lalnunpuia

9:Sh. Lalnunfela

10:Sh. Lallairila

11:Sh. Lalnunzira

12:Sh. Lalnunfima

13:Smt. Thangriai

Advocate for the Petitioner : Mr. Lalfakawma

Advocate for the Respondent : Addl. AG/GA, Mizoram for R3-R5

Linked Case : RFA/3/2026

Smt. Grace Lalmalsawmi
D/o C. Dothanga
R/o Thakthing Dam Veng
Aizawl District
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VERSUS

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2:Smt. Sangluri alias Luri Devi (L)
W/o Sher Bahadur
R/o Tanhril
Aizawl
Mizoram
Represented by her son J.B. Chhetri

3:The State of Mizoram Represented by the Secretary
Government of Mizoram
Land Revenue and Settlement Department
Aizawl
Mizoram

4:The Director

Government of Mizoram
Land Revenue and Settlement Department
Aizawl
Mizoram

5:The Settlement Officer
Government of Mizoram
Land Revenue and Settlement Department
Aizawl
Mizoram

6:Smt. Lalzami (Now Dead) represented by her daughter Smt. Lalthlirveli
Dawrpui
Aizawl
Mizoram

7:Smt. Lalthlirveli
D/o F. Thanglawta (L)
R/o Dawrpui
Aizawl
Mizoram

8:Sh. Lalnunpuia
S/o F. Thanglawta (L)
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Aizawl
Substituted by Smt. Lalthlirveli

9:Sh. Lalnunfela
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Substituted by Smt. Lalthlirveli

13:Smt. Thangriaii
D/o Lalhnema(L)
R/o Bara Bazar
Dawrpui
Aizawl
Substituted by Smt. Lalthlirveli

Advocate for the Petitioner : Mr. Lalfakawma
Advocate for the Respondent : Addl. AG/GA
Mizoram for R3-R5

:::BEFORE:::

HON'BLE MRS. JUSTICE HELEN DAWNGLIANI

Date on which judgment is reserved : 08.10.2026

Date of pronouncement of judgment : 15.10.2026

Whether the pronouncement is of the Operative part of the judgment : NA

Whether the full judgment has been Pronounced : Yes

Judgment & Order (CAV)

Heard the learned counsels.

2. The application is filed under Section 151 CPC, 1908, praying for the leave of this Court to file a 3rd-party appeal against the Judgment dated 25.11.2025

and Decree dated 25.11.2025 passed by the Court of the Civil Judge (Senior Division)-II in Civil Suit No. 8/2019 by invoking the provisions of Section 151 of CPC, 1908.

3. The applicant is the owner of 6 landed properties under Land Settlement Certificates:

(i) House Pass No. 972 of 1985 into LSC No. AZL 1601 of 1986 in the name of Thangriaii (respondent No. 6)

(ii) House Pass No. 973 of 1985 into LSC No. AZL 1596 of 1986 in the name of Thangriaii (Respondent No. 6)

(iii) House Pass No. 974 of 1985 into LSC No. AZL 1598 of 1986 in the name of Thangriaii (Respondent No. 6)

(iv) House Pass No. 975 of 1985 into LSC No. AZL 1600 of 1986 in the name of Thangriaii (Respondent No. 6)

(v) House Pass No. 976 of 1985 into LSC No. AZL 1599 of 1986 and

(vi) House Pass No. 977 of 1985 into LSC No. AZL 1597 of 1986 in the name of Thangriaii (Respondent No. 6)

The applicant purchased the aforesaid landed properties from Shri Zohmingthanga, s/o Hrangbana (L), r/o Chanmari, Aizawl, for which a sale deed dated 09.01.2025 was executed, and thereafter, the 6 LSCs were mutated in the name of the applicant.

4. The seller, i.e., Shri Zohmingthanga, purchased the aforesaid 6 landed properties from Smt. Thangriaii (Respondent No. 13), and the LSCs were mutated in the name of the seller, i.e., Shri Zohmingthanga, on 25.09.2009.

5. For a better appreciation of the facts, it may further be stated that initially, the entire plot was issued to one Shri Lil Bahadur bearing Permit No. 140/1962. After the demise of Lil Bahadur sometime in the year 1970, the same Permit No. 140/1962 was inherited by Respondent No. 1, i.e., Sher Bahadur, and the aforesaid Permit No. 140/1962 was converted into 8 house passes:

(i) House Pass No. 972 of 1985 in the name of Lalnunpuia (Respondent No. 8)

(ii) House Pass No. 973 of 1985 in the name of Lalnunfela (Respondent No. 9)

(iii) House Pass No. 974 of 1985 in the name of Lallairila (Respondent No. 10)

(iv) House Pass No. 975 of 1985 in the name of Lalnunzira (Respondent No. 11)

(v) House Pass No. 976 of 1985 in the name of Lalnunfima (Respondent No. 12)

(vi) House Pass No. 977 of 1985 in the name of Thangriaii (Respondent No. 13)

(vii) House Pass No. 978 of 1985 in the name of Sher Bahadur (Respondent No. 1)

(viii) House Pass No. 1241 of 1984 in the name of Sangluri (Respondent No. 2)

6. It is the case of the applicant that out of the 8 house passes, 6 of them were converted into Land Settlement Certificates, such as:

(i) House Pass No. 976 of 1985 into LSC No. 1599 of 1986; and

(ii) House Pass No. 977 of 1985 into AZL 1597 of 1986 in the name of Thangriaii (Respondent No. 6).

The aforementioned 6 LSCs were purchased by Shri Zohmingthanga and were mutated in his name on 25.09.2009. Eventually, as mentioned before, the 6 LSCs were later sold to the applicant on 09.01.2025 by executing a sale deed, and thereafter, they were mutated in the name of the applicant.

7. Mr. T. Lalzekima, learned counsel for the applicant, submitted that the applicant was under the *bona fide* belief that the 6 LSCs she purchased from Shri Zohmingthanga were free from encumbrances. But to her utter shock and surprise, on 16.01.2026, she was served with a legal notice to the effect that the aforementioned 6 LSCs, which she had purchased from Shri Zohmingthanga, were the subject matter of Civil Suit No. 8/2019, and that the competent Civil Court, vide Order dated 25.11.2025, had decreed the property purchased by her in favor of Respondent Nos. 1 & 2. She was further instructed to remove all her belongings from the property and not to disturb Respondent Nos. 1 & 2 with

regard to the possession and enjoyment of the property.

8. The learned counsel reiterated that the applicant gained knowledge of Civil Suit No. 8/2019 involving her 6 LSCs only when she received the judgment and decree of the learned Civil Court. It is submitted by the learned counsel that when the sale deed was executed on 09.01.2025 between the applicant and Shri Zohmingthanga in respect of the 6 LSCs, it was never disclosed to the applicant that the 6 LSCs were the subject matter of any pending suit, and the competent authority in the government thereafter transferred ownership of the 6 LSCs in favor of the applicant.

9. Mr. T. Lalzekima further submitted that the applicant is a 'person aggrieved', as her rights are directly affected by the said Judgment & Decree.

In support of this submission, the learned counsel has placed reliance on the case of ***H. Anjanappa & Ors Vs A. Prabhakar & Ors***, reported in ***(2025) SCC OnLine SC 183***, and the Judgment of this Court dated 20.07.2026 in ***I.A.(C) No. 187/2024 (Lalthavela Vs Ramengzuali & 2 Ors)***.

The learned counsel, therefore, submitted that the applicant may be granted leave to file an appeal against the Judgment & Order dated 25.11.2025 passed by the Learned Civil Judge (Senior Division)-II, Aizawl in Civil Suit No.

8/2019.

10. Mr. Zoramchhana, learned counsel for respondent Nos. 1 & 2, vehemently opposed the application by submitting that, admittedly, the applicant purchased the landed property covered by 6 house passes which were carved out of Permit No. 140/1962 on 09.01.2025 during the pendency of Civil Suit No. 8/2019, inasmuch, as the said suit was filed in the year 2019 and disposed of vide Judgment & Order along with the Decree on 25.11.2025. It is submitted by the learned counsel that the applicant is clearly barred by the doctrine of *lis pendens*. As such, the applicant has no right to question or challenge the Decree passed by the trial court.

In support of this submission, the learned counsel has placed reliance on the cases:

i) ***Shingara Singh v. Daljit Singh &Anr***, reported in ***(2024) SCC OnLine 2823***

ii) ***Alka Shrirang Chavan &Anr v. Hemchandra Rajaram Bhonsale & Ors***, reported in ***(2026) SCC OnLine SC 55***

11. It was further submitted that because the learned trial court held the original conversion/transfer of Permit No. 140/1962 in favor of Respondent Nos. 8 to 13 to be illegal and void, a subsequent transferee, such as the applicant,

retains no rights, as the rights of the original transferees were extinguished. The learned counsel added that while Defendant Nos. 8 to 13 adduced evidence before the trial court, they failed to disclose that the properties had been sold. Moreover, the RTI response dated 13.05.2025 issued by the Land Revenue & Settlement Department explicitly stated that House Pass Nos. 972, 973, 974, 975, and 977/1985 had not been mutated out of the names of respondent Nos. 8 to 13; thus, it was impossible for respondent Nos. 1 & 2 to know of the purchase by the applicant or any third party.

12. Mr. Zoramchhana further submitted that the decision of this Court relied upon by the applicant's counsel is inapplicable to the present facts. He also noted that counsel for respondent Nos. 4 & 5, who filed a separate appeal (RFA No. 5/2026) against the impugned Judgment & Decree dated 25.11.2025, attempted to question the rights of Mr. Zohmingthanga (the purported purchaser from respondent No. 13/defendant No. 11 in Civil Suit No. 8/2019). However, because Mr. Zohmingthanga himself filed no application or appeal against the trial court's order, a third party cannot raise this issue in the instant application. Lastly, it was submitted that respondent Nos. 1 & 2 remained in physical possession of the suit lands till date without objection from anyone other than the applicant.

13. The learned counsel therefore submitted that the application seeking permission to challenge the Judgment & Order dated 25.11.2025 is devoid of merit and prayed for its dismissal.

14. It is an admitted position, as borne out by the impugned Judgment & Decree dated 25.11.2025, that the present applicant and Shri Zohmingthanga, from whom the applicant claims to have purchased the suit properties, were not parties to Civil Suit No. 8/2019. The question that falls for consideration in the present application is whether, in the facts and circumstances of the case, the applicant, claiming to be a subsequent purchaser of the properties affected by the impugned Judgment & Decree, can be granted leave to prefer an appeal against the same, notwithstanding that the purchase was made during the pendency of the suit.

15. I have considered the submissions advanced by the learned counsel for the parties and perused the materials placed before this Court, including the impugned Judgment & Decree dated 25.11.2025. The rival submissions raise two principal questions: first, whether the applicant, though not a party to the original suit, is a person aggrieved by the impugned Judgment and Decree and is entitled to seek leave to appeal; and secondly, whether the doctrine of *lis pendens* constitutes a complete bar to the grant of such leave.

16. Section 96 and 100 respectively of the Civil Procedure Code, 1908 provide for preferring an appeal from an any original decree or from a decree in appeal respectively. The said provisions do not enumerate as to the category of persons who can file an appeal. It is however a settled legal proposition that a stranger cannot file an appeal unless he satisfies the Court that he falls within the category of an aggrieved person.

17. The Hon'ble Supreme Court in the case of ***Baldev Singh Vs Surinder Mohan Sharma & Ors*** reported in ***(2003) 1 SCC 34*** have held that " *A person aggrieved to file an appeal must be one whose right is affected by reason of the judgment and decree sought to be impugned".*

Earlier, in the case of ***Shanti Kumar R. Canji Vs The Home Insurance Co. Of New York*** reported in ***(1974) 2 SCC 387*** and ***State of Rajasthan Vs Union of India*** reported in ***(1977) 2 SCC 387***, it was observed that "*the expression aggrieved person' does not include a person who suffers from a psychological or an imaginary injury; a person aggrieved must, therefore, necessarily be one, whose right or interest has been adversely affected or jeopardized."*

In the case of ***Subash Babu Vs State of A.P*** reported in ***(2011) 7 SCC 616*** the Supreme Court observed: "*The expression 'aggrieved person' denotes*

an elastic and an elusive concept. It cannot be confined that the bounds of a rigid, exact and comprehensive definition. Its scope and meaning depends on diverse, variable factors such as the content and intent of the statute of which contravention is alleged, the specific circumstances of the case, the nature and extent of the complainant's interest and the nature and extent of the prejudice or injuries suffered by him."

18. In the case of ***H. Anjanappa & Ors (supra)***, the Supreme court has laid down the principles governing grant of leave to appeal as follows:-

> "*43. The principles governing the grant of leave to appeal may be summarised as under:*
>
> *i. Sections 96 and 100 of the CPC respectively provide for preferring an appeal from an original decree or decree in appeal respectively;*
>
> *ii. The said provisions do not enumerate the categories of persons who can file an appeal;*
>
> *iii. However, it a settled legal proposition that a stranger cannot be permitted to file an appeal in any proceedings unless he satisfies the court that he falls within the category of an aggrieved person;*
>
> *iv. It is only where a judgment and decree prejudicially affects a person who is not a party to the proceedings, he can prefer an appeal with the leave of the court;*
>
> *v. A person aggrieved, to file an appeal, must be one whose right is affected by reason of the judgment and decree sought to be impugned;*
>
> *vi. The expression "person aggrieved" does not include a person who*
>
> *suffers from a psychological or an imaginary injury;*
>
> *vii. It would be improper to grant leave to appeal to every person who may in*

some remote or indirect way be prejudicially affected by a decree or judgment; and

viii. Ordinarily leave to appeal should be granted to persons who, though not parties to the proceedings, would be bound by the decree or judgment in that proceeding and who would be precluded from attacking its correctness in other proceedings."

19. In the present case, the applicant asserts that she purchased the 6 landed properties from Shri Zohmingthanga by a sale deed dated 09.01.2025 and that the relevant Land Settlement Certificates were thereafter mutated in her favor. She further asserts that she was unaware of the pending litigation when the sale deed was executed and came to know of the suit and the consequential decree only upon receipt of the legal notice dated 16.01.2026. The applicant's claim is, therefore, not founded merely upon an apprehension of some indirect or remote prejudice. She asserts an existing proprietary interest in the very properties affected by the decree.

20. Judging from the anvil of the definition of aggrieved person, in the given facts of the case the applicant/appellant would be an aggrieved person as she is directly prejudiced by the Decree sought to be impugned.

21. The principal objection raised by the learned counsel for respondent Nos. 1 and 2 is founded upon the doctrine of *lis pendens* and apparently, the other submissions are basically made to substantiate the objection on the ground of

transferee pendente lite.

22. It is not disputed that Civil Suit No. 8/2019 was instituted in the year 2019 and that the sale deed relied upon by the applicant was executed on 09.01.2025, during the pendency of the suit, which culminated in the Judgment and Decree dated 25.11.2025.

23. The doctrine of *lis pendens*, embodied in Section 52 of the Transfer of Property Act, 1882, is founded upon the principle that the rights of parties to litigation concerning immovable property should not be defeated or prejudiced by transfers made during the pendency of the proceedings. Subject to the applicability of the statutory provision and its requirements, a transfer pendente lite does not ordinarily render the transferee immune from the result of the litigation. The transferee takes the property subject to the rights ultimately declared by the competent Court and cannot, merely by reason of the transfer claim a superior or independent title against the decree-holder.

Consequently, the applicant's purchase during the pendency of Civil Suit No. 8/2019 cannot be considered in isolation from the decree ultimately passed in that suit.

24. The submission of respondent Nos. 1 & 2 that the applicant's purchase is subject to the doctrine of *lis pendens* is, therefore, a substantial objection that

must be considered in the proposed appeal. Nevertheless, the existence of a transfer pendente lite and the question whether the transferee may be granted leave to appeal are not necessarily identical questions.

25. The decisions relied upon by the learned counsel for respondent Nos. 1 & 2, namely, ***Shingara Singh Vs Daljit Singh & Anr*** reported in ***(2024 SCC OnLine 2823)*** is on the point that the doctrine of *lis pendens* applies to an alienation during the pendency of the suit whether such alienees had or had no notice of the pending proceedings and that a transferee pendente lite is bound by the decree just as much as he was a party to the suit, and ***Alka Shrirang Chavan & Anr. Vs Hemchandra Rajaram Bhonsale & Ors*** reported in ***(2026) SCC OnLine SC 55*** was referred to bring home the point that a person purchasing a property from the judgment-debtor during the pendency of the suit has no independent right to resist, obstruct or object the execution of a decree have also been cited in support of the objection based upon *lis pendens* and the legal consequences of a transfer made during the pendency of proceedings.

26. For the present purpose, in the facts of the case, this Court is of the view that the doctrine of *lis pendens* does not, without further examination of the applicable legal principles and circumstances, furnish a complete answer to the

applicant's request for leave. The applicant cannot rely upon her subsequent purchase to defeat the decree as a matter of course, but neither should the application for leave be rejected solely on the ground that the purchase occurred during the pendency of the suit, without examining the nature of the interest claimed and the relief sought. And more so when the seller was not aware of the sale and was not a party to the suit.

27. The learned counsel for respondent Nos. 1 & 2 has also relied upon the RTI response dated 13.05.2025 issued by the Land Revenue & Settlement Department, stating that certain house passes had not been mutated out of the names of the persons in whose favor they had originally stood. At this stage, this Court is of the view that the submission would be relevant to the factual controversy concerning the transactions, the knowledge of the parties, and the circumstances in which the properties were transferred. While the absence of knowledge of the respondents regarding subsequent transfer/purchase by applicant may not conclusively determine whether the applicant is entitled to seek leave to appeal, the assertion of the applicant that the purchase was Bonafide and without knowledge of the litigation, may not by itself defeat the doctrine of les pendens if the provision of section 52 TP Act is otherwise applicable. The question of bona fides and the consequences of the transfer must, therefore, be examined in accordance with law and the evidence available

in the appropriate proceedings. No final finding on these issues is called for at this stage.

28. Upon consideration of the rival submissions, this Court is of the view that the applicant has demonstrated a sufficient prima facie interest in the subject matter of the impugned Judgment & Decree to warrant consideration of her request for leave to appeal. The properties which the applicant claims to have purchased are stated to be directly affected by the Decree, and the applicant was not a party to the original suit. Her application, therefore, cannot be rejected solely on the ground that she was not arrayed as a party in Civil Suit No. 8/2019.

29. At the same time, the applicant's purchase was made during the pendency of the suit, and the legal consequences of the transfer cannot be ignored. The applicant will remain subject to the doctrine of *lis pendens*, if applicable, and to the binding effect of the decree as determined in accordance with law. It is also noteworthy that the Supreme Court in the case of ***H. Anjanappa & Ors (supra)*** have observed that the impleadment of a transferee pendente lite with leave of the Court would depend upon nature of the suit and appreciation of materials available on record.

30. Further, this Court is also of the view that in the given facts of the case the

principle applied by the coordinate Bench of this Court in ***Lalthavela (supra)*** can be applied to the instant case on the ground that the applicant is affected by the disposal of civil suit involving a landed property purchased by her wherein she and the vendor were not a party.

31. In view of the foregoing discussion, the application is allowed.

32. The application stands disposed of accordingly.

No order as to costs.

JUDGE

Comparing Assistant