

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL****WP(C)No.141 of 2022**

Smt. Aheibam Sarju Devi, aged about 33 years, W/o (L) L. Vineet Singh, R/o Kwakeithel Akham Leikai, PO Imphal PS Singjamei, District Imphal West, Manipur-795140.

2. Baby Lyanna Longjam, aged about 10 years, D/o(L) L. Vineet Singh represented by her natural mother, Smt. Aheibam Sarju Devi, aged about 33 years, W/o (L) L. Vineet Singh, R/o Kwakeithel Akham Leikai, PO Imphal PS Singjamei, District Imphal West, Manipur-795140.

...Petitioners

- Versus -

1. The State of Manipur represented by Commissioner/Principal Secretary(Revenue), Government of Manipur, Secretariat Office, PO & PS Imphal, Imphal West District, Manipur-795001.

2. The Commissioner/Principal Secretary (CAF& PD), Government of Manipur, Secretariat Office, PO & PS Imphal, Imphal West District, Manipur-795001.

[3] The Collector (Land Acquisition)/Deputy Commissioner, Jiribam District, PO & PS Jiribam, District-Jiribam, Manipur-795116.

[4] The Director (CAF&PD), Manipur Sangaiprou, Imphal West District, Manipur.

...Respondents

BEFORE
HON'BLE THE ACTING CHIEF JUSTICE MR. M.V.MURALIDARAN
ORDER

14.08.2023

[1] Heard Mr.L.Anand, learned counsel for the petitioner and Mr. Shyam Sharma, learned Government Advocate for the respondents.

[2] This writ petition has been filed by the petitioner for issuance of a writ of mandamus directing the respondents to release and hand over the physical possession of the homestead land to the petitioner, which is under illegal occupation by the Department of CAF & PD, Government of Manipur, by demolishing the standing structure erected by the respondents or take steps for making payment of the entitled land compensation amount to the petitioner in lieu of his land under Old Patta No.71 corresponding to New Patta No.245 covered by C.S. Dag No.1038 measuring an area of 0.4355 hectares situated at Jiribam, Tahsil: Jiribam, Village No.13, Babupara, Jiribam under due to process of law.

[3] The learned counsel for the petitioner submitted that the petitioner is the owner of the homestead land under Old Patta No.71 corresponding to New Patta No.245 covered by C.S. Dag No.1038 measuring an area of 0.4355 hectares situated at Jiribam, Tahsil: Jiribam, Village No.13, Babupara, Jiribam. Earlier, the Government of Manipur under notification dated 9.11.2011 had initiated action for acquisition of the land for construction of 5000 MT capacity godown at Jiribam for Consumer Affairs, Food and Public Distribution. In this regard, the District Collector had also issued Section 4(1) notice on 31.5.2011 for acquisition of the land. The Revenue Department had also conveyed the approval of the Government for fixation of market value and while the process of the land acquisition was being taken up by the Government under the Land Acquisition Act, 1894, the second respondent had illegally taken the physical possession of the petitioner's homestead land and the petitioner was also under the bona fide impression that the State would give the entitled compensation amount to the petitioner in lieu of the land acquired from him. Despite lapse of two years, no award was prepared and the compensation was also not paid to the petitioner.

[4] The learned counsel for the petitioner submitted that the respondent State after taking possession of the said homestead land of the petitioner deceitfully had constructed the structure which was purportedly to be used as 5000 MT capacity godown. Since the

petitioner has not been given any compensation, on 28.3.2014, the petitioner has submitted a representation to the competent authority to make payment of compensation. Despite receipt of the said representation, no order has been passed on the said representation. Aggrieved by the action of the competent authorities, the petitioner filed W.P.(C) No.281 of 2014, *inter alia*, for direction to the State respondents for taking necessary steps towards preparation of the final award and payment of compensation. By the order dated 20.5.2015, the said writ petition was disposed of.

[5] The learned counsel then submitted that pursuant to the order of this Court dated 20.5.2015, the Additional Deputy Commissioner, Jiribam had submitted a report of the findings of the enquiry, wherein it has been clearly stated that unauthorized construction has been carried out by three contractors on the land of the petitioner. It was also reported that the acquisition process of the land of the petitioner had lapsed on 5.9.2013 due to failure of acquiring department to deposit the amount payable to the affected pattadars.

[6] The learned counsel for the petitioner further submitted that upon lapse of the acquisition process of the land of the petitioner on 5.9.2013, the Government of Manipur issued fresh notification dated 1.4.2015 under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement

Act, 2013 in connection with the land of the petitioner for the purpose of construction of 5000 MT capacity godown. Since the competent authority failed to make necessary declaration within the specified time under the new Act, the acquisition proceedings lapsed again on 1.10.2016 due to the fault of the respondents.

[7] According to the learned counsel for the petitioners, on 9.5.2017, the State Government further extended by another period of six months for declaration with effect from 1.4.2017 which had technically again lapsed on 1.10.2017. Thus, the intention of the authorities in acquiring the land of the petitioner is ill-conceived and no due process has been followed and the petitioner has been illegally deprived of his land till date without any due process.

[8] According to the learned counsel, on 22.7.2019, the petitioner submitted a representation to the concerned authority requesting for release of the homestead land of the petitioner and for payment of damages caused to the said land or to pay the entitled land compensation to the petitioner in lieu of the land acquired for construction of 5000 MT capacity godown over the land of the petitioner. Despite having knowledge of the order of this Court dated 14.6.2019 passed in W.P.(C) No.281 of 2014 and the representation dated 22.7.2019, the respondents have neither taken up a single step

either to release and hand over the homestead land of the petitioner by demolishing the structure or taken steps to pay the compensation.

[9] Finally, the learned counsel argued that the land of the petitioner cannot be forfeited by the Government in such arbitrary and whimsical manner and against the existing rule of law and deprive the petitioner of his right to property without affording due compensation of the land. Thus, a prayer has been made to direct the respondents to release and handover physical possession of the homestead land to the petitioner or to take necessary steps for making payment of the entitled compensation.

[10] The learned Government Advocate for the respondents submitted that the Department of CAF & PD, Government of Manipur is considering for direct purchase of the land of the petitioner and in that regard, the Department has already initiated process after obtaining the report of the District Supply Officer, CAF & PD, Jiribam District affirming that the land is required for construction of godown for CAF & PD, Jiribam, construction of staff and labourers quarters, parking areas for trucks and other vehicles etc.

[11] In reply, the learned counsel for the petitioner submitted that the statement of the learned Government Advocate is not supported by any material and that the respondent authorities have

not shown any interest in placing the matter before the State Cabinet meeting for consideration and approval. Thus, the conduct of the respondent authorities itself is very doubtful as they have miserably failed to make any prompt decision and action during the Cabinet meeting held in January, 2023.

[12] Adding further, the learned counsel for the petitioner argued that where the Department of the Government resort to direct purchase of land from willing pattadars/land owners for various schemes of the Government, it has to constitute Direct Purchase Committee with the approval of the State Cabinet as per the Office Memorandum dated 9.10.2017. In the case of the petitioner, the matter has been kept pending since the year 2011 and the matter could have been sorted out by the respondents by simply resorting and adhering to the Office Memorandum dated 9.10.2017.

[13] This Court considered the rival submissions and also perused the materials available on record.

[14] The land acquisition process under the Land Acquisition Act, 1894 for acquisition of the petitioner's land for the purpose of construction of 5000 MT capacity godown at Jiribam for CAF & PD Department was originally initiated in the year 2011. Since the respondent authorities failed to deposit the compensation payable to the affected pattadar, the acquisition proceedings got lapsed.

Thereafter, under the Act of 2013, the land acquisition process was again initiated by the competent authorities for construction of 5000 MT capacity godown. Failure on the part of the respondents in issuing declaration, the acquisition proceedings again got lapsed during 2016. Though the respondent authorities extended the period by another six months for declaration, subsequently, the same had technically lapsed again on 1.10.2017. It is an admitted fact that the respondent authorities have taken over possession and have made constructions in the land of the petitioner.

[15] The second respondent filed affidavit-in-opposition stating as under:

“5. the answering deponent humbly submits that the Department of CAF & PD, Government of Manipur is considering for direct purchase of the said land. The Director (CAF & PD), Manipur has already initiated process for direct purchase of the said lands after obtaining the report of the District Supply Officer, CAF & PD, Jiribam District, Manipur affirming that the land is required for construction of Godown for CAF & PD, Jiribam, construction of staff and labourers quarters, parking areas for trucks and other vehicles etc.”

[16] On the other hand, it is the say of the petitioner that if the Government resort to direct purchase, it has to constitute a Direct Purchase Committee with the approval of the State Cabinet and the matter of the petitioner could have been sorted out by the respondents

by simply resorting and adhering to the Office Memorandum dated 9.10.2017.

[17] This Court perused the Office Memorandum dated 9.10.2017 and the said Office Memorandum speaks about the guidelines while negotiating the matter with the pattadar/land owner and also the recommended rates.

[18] Since the respondent authorities are willing to purchase the property of the petitioner under direct purchase scheme by resorting and adhering to the Office Memorandum dated 9.10.2017 and the petitioner is also agreeable for the same, it would be appropriate to dispose of the writ petition with direction.

[19] In the result,

- (i) The writ petition is disposed of.
- (ii) The respondent authorities are directed to constitute the Direct Purchase Committee with the approval of the State Cabinet as per the Office Memorandum dated 9.10.2017 issued by the Commissioner (Revenue), Government of Manipur.

- (iii) The respondent authorities are directed to purchase the property of the petitioner by resorting and adhering to the Office Memorandum dated 9.10.2017.
- (iv) The said exercise is directed to be completed within a period of three months from the date of receipt of a copy of this order.
- (v) No costs.

ACTING CHIEF JUSTICE

John Kom