

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C)No.223 of 2023

Shri Maisnam Lukhoi Singh, aged about 65 years, S/o (Late) M. Bina Singh, resident of Awang Sekmai Bazar, PO & PS Sekmai, Imphal West District, Manipur-795136 & 11 Ors.

...Petitioners

- Versus -

1. The State of Manipur, represented through the Commissioner/Secretary(Revenue), Government of Manipur, Manipur Secretariat, Babupara PO & PS Imphal, Imphal District, Manipur-795001 & 4 Ors.

...Respondents

BEFORE
HON'BLE THE ACTING CHIEF JUSTICE MR. M.V.MURALIDARAN
O R D E R

29.03.2023

1. Heard Dr. RK Deepak, learned counsel for the petitioners; Mr. M. Devananda, learned Additional Advocate General for the

respondents 1 to 4 and Mr. S. Kaminikumar, learned Central Government Counsel for the fifth respondent.

2. This writ petition has been filed by the petitioners seeking to quash the impugned eviction orders dated 23.2.2023 issued by the third respondent and to direct the respondents to follow the due process of law relating to acquisition of land and thereafter pay fair compensation in accordance with law.

3. Assailing the impugned eviction orders, the learned counsel for the petitioners submitted that in the case of petitioners 1 to 4, their lands were notified for acquisition and were included in the schedule of land intended to be acquired by the competent authority vide Gazette notification dated 7.4.2021 and 14.10.2021 respectively. Thereafter, neither any further proceedings were initiated, nor they were informed of any such proceedings by the competent authority for acquisition of the land like determination of award, deposit of compensation and possession thereof, thereby allowed the authorities to lapse the notification. In the case of petitioners 5 to 12, they were never informed or notified by the competent authority for acquisition of land under any relevant rules or laws. Therefore, the competent authorities cannot just grab the lands belonging to private ownership

in the guise of infrastructure development without following the due process of law.

4. The learned counsel for the petitioners further submitted that the provisions invoked by the competent authority in the eviction orders are not applicable to the petitioners who are legal owners of the lands intended for acquisition. Therefore, the action of the respondents in issuing the impugned eviction orders even before notifying their intention for acquisition of lands mandated by the Acts enacted for the said purpose is illegal and void *abi initio*.

5. The learned counsel for the petitioners would submit that as evident from the similar cases of acquisition of land along the stretch NH-2, the competent authority has acquired the land for the purpose of expansion of National Highways by invoking the relevant provisions of the National Highways Act, 1956 [for short, "*the Act of 1956*"]. Assuming but not admitting that the petitioners' lands are intended to be acquired under the Act of 1956, the competent authorities ought to have issued a notification declaring its intention to acquire the land under Section 3A of the Act of 1956. However, in the instant case, except for petitioners 1 to 4, the competent authority never issued any such notification in complete violation of relevant provisions of the Act

of 1956. Thus, the action of the third respondent is arbitrary and, therefore, the same is liable to be interfered with by this Court.

6. Arguing so, the learned counsel added that the competent authorities failed to issue any order to surrender or deliver possession of the lands to them as is required under Section 3E of the Act of 1956 and had also failed to determine the amount payable as compensation to the affected land owners and make deposits of the same, as required under Sections 3G and 3H of the Act of 1956. On the other hand, the third respondent issued eviction orders, violating the procedures laid down for taking possession of the lands intended to be acquired under Section 3E of the Act of 1956. Therefore, the action of the third respondent is illegal and cannot be sustainable in the eye of law.

7. The learned Additional Advocate General, by producing the written instructions dated 27.3.2023 received from the office of the second respondent, submitted that the complaints in respect of the petitioners have already been examined and after due consideration, it was found that additional funds would be required to pay compensation to the land owners and the second respondent requested the fourth respondent the required funds vide letter dated 24.2.2023. Therefore, the second respondent is awaiting the arrival

of the required funds for payment of compensation amount and once the amount is received, then the same will be disbursed to the concerned affected pattadars/land owners.

8. This Court considered the submissions raised by learned counsel appearing on either side and also perused the materials available on record.

9. The case of the petitioners is that barring petitioners 1 to 4, the competent authority never issued any such notification for acquisition of the lands of petitioners 5 to 12 and, on the other hand, the competent authority issued eviction orders which are illegal, illogical and cannot be sustained in the eye of law.

10. Sections 3A to 3J of the Act of 1956 stipulate process of notification and acquisition of private land for public purpose. Particularly, Section 3E reads as under:

“3E. Power to take possession.- (1) Where any land has vested in the Central Government under sub-section (2) of section 3D, and the amount determined by the competent authority under section 3G with respect to such land has been deposited under sub-section (1) of section 3H, with the competent authority by the Central Government, the competent authority may by notice in writing direct the owner as well as any other person who may be in possession of such

land to surrender or deliver possession thereof to the competent authority or any person duly authorized by it in this behalf within sixty days of the service of the notice.

(2) If any person refuses or fails to comply with any direction made under sub-section (1), the competent authority shall apply-

(a) in the case of any land situated in any area falling within the metropolitan area, to the Commissioner of Police;

(b) in case of any land situated in any area other than the area referred to in clause (a), to the Collector of a District, and such Commissioner or Collector, as the case may be, shall enforce the surrender of the land, to the competent authority or to the person duly authorized by it.”

11. It appears that after issuance of the eviction orders dated 23.2.2023 by the third respondent, the petitioners through their advocate sent a reply on 6.3.2023, *inter alia*, stating that the provisions invoked by the competent authority in issuing the eviction orders are not applicable to the case of the petitioners, who are owners of the lands under acquisition and have not been granted any compensation.

12. It is the say of the second respondent that the complaints in respect of the petitioners have been examined and after

consideration, additional funds were called for from the fourth respondent and once funds are received by the second respondent, the same will then be disbursed to the concerned affected pattadars. The aforesaid statement is also reflected in the written instruction of the Deputy Commissioner, Imphal West dated 27.3.2023 sent to the learned Additional Advocate General. For proper appreciation, the same is quoted hereunder:

“Sir,

In inviting a reference to our office letter dated 13/03/2023 on the above subject, I have the honour to state that the complaints in respect of the petitioner have already been examined. After due consideration, it was found that additional funds would be required to pay their compensation amounts. The required funds have already been requested from NHIDCL vide Deputy Commissioner, Imphal West letter no.DC(IW)/6/7/I-K/LA/2019(Pt. III) dated 24/02/2023 (copy enclosed) as shown below:

<i>Sl. No</i>	<i>Name and Details</i>	<i>Compensation Status</i>	<i>Eviction Status</i>
<i>1</i>	<i>Shri Meisnam Lukhol Singh, Patta No.80(O) 484/963(N) covered by CS Dag No.310</i>	<i>Land is to be freshly acquired for which compensation amount of Rs.50,005/- has already been called for (Annexure H-S. No.2)</i>	<i>Not evicted</i>
<i>2</i>	<i>Smt. Soibam (O) Tombi Devi, Patta</i>	<i>Compensation amount of Rs.96,27,0006/- for standing structures</i>	<i>Not evicted</i>

	No.318(O) 118/937(N) covered by CS Dag No.2920	has already been called for. Amount to be shared with Khwairakpam Amitabh Singh (Annexure F1 – Sl.No.10)	
3	Shri Khwairakpam Amitabh Singh, Patta No.931(O) 1083/4340(N) covered by CS Dag No.3285	Compensation amount of Rs.96,27,006/- for standing structures has already been called for. Amount to be shared with Soibam (O) Tombi Devi (Annexure F1 – Sl.No.10)	Not evicted
4	Smt. Angom (O) Kamala Devi, Ptta No.507(O) 215(N) covered by CS Dag No.2933	Compensation amount of Rs.3,95,377/- already available while additional amount of Rs.25,86,897/-0 for standing structures has already been called for. (Annexure F2 – Sl. No.8)	Standing structures built on governmen t Khas land demolished with the consent of the encroacher
5	Smt. Laimayum Kumu Devi, Patta No.325 (O) 859/964(N) covered by CS Dag No.2857	Compensation amount of Rs.29,75,541/0 for standing structures has already been called for. (Annexure F1 – Sl. No.2)	Not evicted
6	Shri Kajam Ramchandra Singh, Patta No.16 (O) 1287(N) covered by CS Dag No.2849	Compensation amount of Rs.14,28,032/- for standing structures has already been called for. (Annexure f – Sl. No.6)	Not evicted
7	Shri Kshtrimayum	Compensation amount of Rs.11,45,672/- for	Not evicted

	Kirankumar Singh, Patta No.1128/1514 (N) covered by CS Dag No.2846	standing structures has already been called for. (Annexure F1 – Sl. No.6)	
8	Smt. Khwairampam Tombi Devi, Patta No.483/1671(N) covered by CS Dag No.2922/336	Compensation amount of Rs.25,95,313/- already available while additional amount of Rs.5,63,107/- for standing structures has already been called for. (Annexure F2 – Sl. No.7)	Not evicted
9	Shri Usham Deva Singh, patta No.483/1670 (N) covered by CS Dag No.2922/3335	Compensation amount of Rs.23,60,664/- already available while additional amount of Rs.11,65,455/- for standing structures has already been called for (Annexure F2 – sl. No.6)	Not evicted
10	ShirThangjam Bhudachandra Singh,Patta No.1822/1842 (N) covered by CS Dag No.3383/3391	Compensation amount of Rs.27,01,099/- for standing structures has already been called for (Annexure F1 – Sl. No.7 & 8)	Not evicted
11	Smt. Usham Amubi Devi, Patta No.1100 (O) 105 (N) covered by CS Dag No.2847	Compensation amount of Rs.11,44,195/- for standing structures has already been called for. (Annexure F – Sl. No.5)	Not evicted
12	Shri Khwairampam Yaiskul, Patta No.857/964 (N)	Compensation amount of Rs.3,04,674/- for standing structures has already been	Not evicted

	covered by CS Dag No.2857	called for. Amount to be shared with Khwairakpam Debendra (Annexure F1 – Sl. No.4)	
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This office is awaiting the arrival of the required funds for payment of compensation amounts. The compensation amounts, once received by the office of the undersigned will then be disbursed to the concerned affected pattadars at the earliest.”

13. In view of the subsequent development, stated supra, now the impugned eviction notices issued by the third respondent are not sustainable in the eye of law, as the competent authority after due consideration of the complaints made by the petitioners has sought funds from the fourth respondent to pay compensation to the land owners. Whatever be the process, for acquisition of the lands for expansion of the National Highways in question, the respondent authorities have to follow the procedure contemplated under law and pay fair compensation to the land owners. Forceful dispossession/eviction of the land owners from the land owned by them till proper notification for acquisition and payment of fair compensation shall be avoided by the respondent authorities. It is reiterated that the respondent authorities have to follow due process

of law relating to acquisition of the lands and thereafter pay fair compensation in accordance with law.

14. In view of the above, the writ petition is disposed of. The respondent authorities are directed not to evict the petitioners from the lands in question, except by following the due process of law. No costs.

ACTING CHIEF JUSTICE

NFR/FR

John Kom