

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

WP(C) No. 362 of 2021

Smt. R.K Nanao Devi, aged about 45 years grand daughter of late R.K. Gopalsana Singh and daughter of late R.K. Sanajaoba Singh, presently residing at Eroisemba mayai leikai, P.O & P.S Lamphel, Imphal West District, Manipur.

...Petitioner

-Versus-

1. The State of Manipur represented by the Commissioner/ Secretary (Revenue), Govt. of Manipur, old Secretariat Building, Babupara, P.O & P.S Imphal, Imphal West District.
2. The Commissioner/ Secretary (MAHUD), Govt. of Manipur, Secretariat Building, Babupara P.O & P.S Imphal, Imphal West District.
3. The Director, MAHUD, Govt. of Manipur, secured office complex, P.O & P.S. Imphal, Imphal West District, Manipur.
4. The Imphal Municipal Corporation represented by the Municipal Commissioner, P.O. & P.S. Imphal, Imphal West District, Manipur.

.... Respondents

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

For the Petitioner	::	Mr. Ng. Jotindra, Advocate
For the Respondents	::	Mr. Y. Nirmolchand, Sr. Adv., Mrs. L. Monomala, GA

Date of Hearing and

reserving Judgment & Order :: 12.01.2023.

Date of Judgment & Order :: **21.02.2023**

JUDGMENT AND ORDER
(CAV)

Heard Mr. Ng. Jotindra, learned counsel for the petitioner; Mrs. L. Monomala, the learned Government Advocate for the respondents 1 to 3 and Mr. Y. Nirmolchand, the learned senior counsel for the fourth respondent.

2. This writ petition has been filed by the petitioner to quash the impugned order dated 12.5.2017 and to direct the respondents 1 to 3 to deliver and hand over shop No.7 of Ngari Dukan at Khwairamband Bazar, Imphal as allotted to the petitioner's late grandfather, namely R.K.Gopalsana Singh, vide allotment order dated 5.2.2011 issued by the Additional Secretary, MAHUD, Government of Manipur or any other plot under construction by Imphal Municipal Council at Sanakeithel, Lamphel to the petitioner.

3. Mr. Ng. Jotindra, the learned counsel for the petitioner submitted that the petitioner's grandfather, namely R.K.Gopalsana Singh was the owner of the land known as Uripok Panchai Manak under Patta No.87/627 covered by C.S.Dag

No.1261/1283 measuring an extent of 0.02 acres situated at No.87, Imphal West Tehsil and over the piece of the said land, the petitioner's grandfather opened a grocery shop on the ground floor and lived with his family on the two floor, including the petitioner herself. There were many other shop site cum residential plot of other person contiguous to the petitioner's grandfather's aforesaid shop site being used and run for similar purpose.

4. The learned counsel further submitted that after the demise of the petitioner's grandfather, her late father R.K.Sanajaoba Singh inherited the aforesaid shop cum residential plot and continued to run the grocery shop while living with his family, including the petitioner. While so, some times in the year 1977, the Government of Manipur attempted to evict the petitioner's father from the land stating that the said land was a Government land and eviction case was also registered by the Deputy Commissioner, Imphal West in Eviction Case No.13 of 1977. However, the eviction order passed by the SDC was appealed by the petitioner's father before the SDO, Imphal West in Revenue Appeal No.24 of 1997 and, by the order dated 12.5.1978, the said appeal was allowed, thereby staying the eviction process. Aggrieved by the same, State of Manipur

preferred a petition under Section II(3) of the MLR Act and after conducting an enquiry, on 24.5.1983, an order was passed by the Deputy Commissioner (Central) in Review Case No.13 of 1978 holding that the land was not a Government land, but a patta land belonging to late R.K.Sanajaoba Singh.

5. The learned counsel for the petitioner submitted that eviction was also taken up for the other neighbouring shop sites and patta land which also met similar fate, as the Deputy Commissioner (Central) held in all cases that the shop sites were patta lands of the respective owners/possessors and not Government khas lands. In view of the order of the Deputy Commissioner (Central), the eviction proceedings were stopped by the State authorities and the pattadars were allowed to continue with their possession and ownership.

6. The learned counsel for the petitioner urged that having failed the State authorities to legally evict the petitioner and other similarly situated neighbours from their respective lands, on 20.2.1994, the State authorities with the help of police personnel, demolished the shop cum residential structure of the petitioner's father without any prior notice. Similarly, demolition was also carried out over the other neighbouring patta lands.

Thus, the petitioner's family was completely devastated and rendered homeless.

7. The learned counsel for the petitioner then submitted that the petitioner's father resigned himself to his fate. However, the other pattadars, who were aggrieved by the illegal action of the State authority sought compensation for the demolition of their property by filing suit for damages against the State Government in Original Suit No.70 of 2007 (re-numbered as O.S.No.37 of 2022) and, by the judgment and decree dated 26.11.2022, the said suit was dismissed by the Additional District Judge (FTC), Manipur East, Imphal. Aggrieved by the same, RFA No.4 of 2003 was filed before the Gauhati High Court, Imphal Bench. During the pendency of the appeal, the State authority, on realizing their illegal action of the demolition, admitted the ownership and requested for taking remedial action. In view of such decision, the learned Advocate-General submitted before the Court that a decision was taken by the State Government to acquire the land for giving compensation. Accordingly, recording the submission made by the learned Advocate-General, the appeal was disposed of.

8. The learned counsel next submitted that in view of such development, the petitioner's father approached the

concerned authority for compensation etc. and had also requested the concerned authority to provide an alternative piece of land rather than giving them compensation, as he is without livelihood as well as residential plot while reserving the right to demand for compensation in the event of the alternative land request being rejected. Considering the request of the petitioner's father, the authority assured the petitioner's father for providing the alternative piece of land having an extent of 0.02 acres out of the Government Khas land of C.S.Dag No.737 and processed for allotment to him as an alternative for the land taken over by the State authority. Unfortunately, before such allotment was made, the petitioner's father died.

9. The learned counsel would submit that after the demise of the petitioner's father, on 11.6.2014, the petitioner has submitted a representation to the respondent authorities, including the local MLA, who has also recommended for allotment of the land stated supra. Since the assurance was not honoured, the petitioner has again sent a reminder representation on 5.8.2016 to the State authorities. Despite receipt of the reminder representation, no action was taken, which compelled the petitioner in filing W.P.(C) No.760 of 2016. By the order dated 5.10.2016, this Court disposed of the said writ

petition by directing the respondents therein to consider and dispose of the representation of the petitioners dated 11.6.2014 and 5.8.2016. Since the respondent authorities failed to obey the order of this Court, the petitioner has filed Contempt Case No.16 of 2017 and pending Contempt Case, on 12.5.2017, the Deputy Secretary, Revenue, Government of Manipur, passed the impugned order stating that the claim made by the petitioner cannot be considered. Assailing the same, the petitioner has filed the present writ petition.

10. The argument of the learned counsel for the petitioner is that while rejecting the representation of the petitioner, the respondent authority held that the shop site plot did not belong to the petitioner's late grandfather and the said shop site plot was a State khas land and by virtue of which, the petitioner has no right over the land. According to the learned counsel for the petitioner, in the impugned order, it has been held that the land which was proposed to be allotted to the petitioner also belongs to PDA, Manipur. Thus, it is contended that the reasoning given in the impugned order is incorrect.

11. The learned counsel argued that on 22.9.2017, the Joint Director, MAHUD, Government of Manipur furnished RTI information to the petitioner that the petitioner's late grandfather

R.K.Gopalsana Singh was allotted shop No.7 on 5.2.2011 in lieu of the forcible acquisition of their patta land, including the petitioner's grandfather's patta land/shop site plot. With regard to compensation, an information was furnished to the effect that no one has come to claim the compensation till date.

12. According to the learned counsel for the petitioner, the authorities of MAHUD confirmed the petitioner's entitlement and the claim, as the shop was indeed allotted in her grandfather's name in lieu of the forcible acquisition of the petitioner's grandfather's patta land/shop site. In view of the development, the petitioner approached the respondent authorities to deliver and hand over shop No.7 as allotted to her late grandfather R.K.Gopalsana Singh by virtue of being the legal heir. However, the respondent authorities have failed to give any assistance to the petitioner and in fact, they are all avoiding the petitioner in all manner and evading to deliver and handover the shop plot to the petitioner.

13. The learned counsel next submitted that earlier the petitioner filed W.P.(C) No.850 of 2017 for a direction on the respondents for delivery and handing over of shop No.7 of Ngari Dukan at Khwairamband Bazar, Imphal and to quash the order dated 12.5.2017. By the order dated 16.5.2019, the said writ

petition was disposed of by directing the petitioner to pursue her remedy by filing an application to the higher authority and the authority was also directed to consider and dispose of the same within a period of 12 weeks. Thereafter, the petitioner submitted series of representations to the concerned authority requesting them for delivery and handing over of allotted shop No.7 or any other plot under construction by Imphal Municipal Corporation at Sanakeithel, Lamphel as well as for payment of compensation amount of Rs.57,138/-. However, no action was taken till date. Since the petitioner being the grand daughter and legal heir of late R.K.Gopalsana Singh, she is entitled to receive shop No.7 as well as the compensation amount.

14. Per contra, Mrs. L. Monomala, the learned Government Advocate appearing for the respondents 1 to 3, inter alia, submitted that a Memo of Understanding was executed between the State Government, represented by the Joint Secretary, MAHUD and the shop owners for vacating the land for redevelopment by the State Government and the State Government allotted shop No.7 of Ngari Dukan at Khwairamband Bazar to R.K.Gopalsana, son of late Gulamjatsana Singh of Moirangmayum Akham Leikai and the compensation of

Rs.57,138/- earmarked for R.K.Gopalsana remains unclaimed, as no one has come to claim the compensation.

15. The learned Government Advocate would submit that on 24.1.2018, a representation was received from the petitioner claiming the compensation amount earmarked for R.K.Gopalsana Singh and the matter was duly processed for payment of compensation. However, during the process, it was found that the claim made by the petitioner was likely to be caused by mistaken identity due to the following reasons:

- (i) The petitioner claims to be the granddaughter of late R.K.Gopalsana Singh, son of R.K.Sanatomba @ Thambalsana of Uripok Pacahi Manak who possessed a piece of land measuring an area of 0.02 acre under Patta No.87/627 under C.S. Dag No.1261/1283 of Village No.87 of Uripok.
- (ii) The owner of the shop under consideration is R.K.Gopalsana, son of R.K.Gulamjatsana Singh of Moirangmayum Akham Leikai who possessed a piece of land measuring an area of 0.004 hectare under Patta No.1023 (O) 10(N) C.S. Dag No.3162(O)/130(N) of Sheet No.16,

Imphal Municipality. The State Government signed an agreement with R.K.Gopalsana of Moirangmayum Akham Leikai for vacating the land and making it available to the State Government for redevelopment.

- (iii) In spite of having similar names i.e. R.K.Gopalsana Singh, the two persons have different father's name, address, location of land (shop site) and area of plot.

16. The learned Government Advocate further submitted that the shop allotted to R.K.Gopalsana of Moirangmayum Akham Leikai is in no way related to the piece of land covered by C.S. Dag No.1261/1263 measuring an area of 0.02 acres under Revenue Village No.87 of Imphal West Tehsil.

17. Mr. Y. Nirmolchand, the learned senior counsel for the fourth respondent submitted that the fourth respondent is in no way connected with the writ petition and the allotment of shops/stalls cannot be done by the Imphal Municipal Corporation without the approval or instructions of the Administrative Department and Imphal Municipal Corporation has no power to allot shop/stalls. He would submit that insofar as vacant shops/stalls in the first floor of the three Ima Markets,

Khwairamband Bazar is concerned, no allotment order/license has been issued as on date. Thus, a prayer has been made for deletion of the fourth respondent from the array of parties.

18. This Court considered the rival submissions and also perused the materials available on record.

19. It is an admitted fact that the petitioner's grandfather's shop cum residential structure called as Uripok Panchi Manak in Patta No.87/627, covered by C.S. Dag No.1261/1283 measuring an extent of 0.02 acre is situated at Village No.87, Uripok, Imphal West District. The said structure and other neighbouring structures were demolished by the State authorities on 20.2.1994 claiming that the land is a Government land.

20. Earlier the petitioner's father filed Review Misc. Case No.13 of 1978 before the Deputy Commissioner (Central), Manipur for settling the issue that the petitioner's grandfather's patta land now inherited by the petitioner's father was not a Government khas and after an enquiry, by the order dated 24.5.1983, the Deputy Commissioner held that the land covered by Patta No.87/627 in C.S. Dag No.1283/1261 of Uripok is not a Government land, but a patta land belonging to the petitioner's

father Rajkumar Sanajaoba Singh, son of late Gopalsana Singh of Uripoi Panchai Mamang.

21. Since eviction process was taken for other neighbouring shop sites and patta land, one of the neighbours, namely Mairambam Herojit Singh, filed a civil suit claiming compensation in Original Suit No.70 of 2007 and the said suit was dismissed on 26.11.2002 by the trial Court. Aggrieved by the same, RFA.No.4 of 2003 has been preferred before the Gauhati High Court, Imphal Bench. When the appeal was taken up for hearing, the learned Advocate-General, on instructions and by producing a letter dated 29.5.2008, submitted that the Government has taken a decision to acquire the land formally and pay the compensation to the appellant. By the judgment dated 30.5.2008, the appeal was disposed of by directing the State Government to initiate acquisition proceedings within a period of two months from the date of judgment and the same shall be completed within a period of four months thereafter. If the respondents fail to acquire the land and pass appropriate award within the aforesaid period of six months, the appellant shall be at liberty to approach the Court for restoration of the appeal.

22. It appears that on 11.6.2014, the petitioner has submitted a representation to the Minister for Revenue,

Government of Manipur, wherein she has stated that the land covered in C.S. Dag No.1261/1283 measuring an extent of 0.02 acre situated at Uripok Panchai Manak under Patta No.87/627 belonged to her grandfather which had already been acquired, however, till date no compensation was paid. Therefore, she prayed for an alternative arrangement to allot a portion of the land covered by C.S. Dag No.737 (New) of Sheet No.XVI (New) within Village No.87(A)-Khwai Bazar, IWT, which is now in vacant position of the same. Since no action was taken on the representation of the petitioner, on 5.8.2016, the petitioner submitted a reminder representation to the Commissioner/Secretary, Revenue, Government of Manipur. Since the respondent authorities failed to take action on the representations of the petitioner, she filed W.P.No.760 of 2016 before this Court. By the order dated 5.10.2016, the said writ petition was disposed of with a direction to the respondents 1 and 2 therein to consider and dispose of the representation submitted by the petitioner on 11.6.2014 and the reminder dated 5.8.2016, preferably within a period of one month without adverting to the facts and issues raised.

23. At this juncture, the learned Government Advocate submitted that shop No.7 of Ngari Dukan at Khwairambam Bazar

allotted to R.K.Gopalsana son of R.K.Gulamjatsana Singh of Moirangmayum Akham Leikai is in no way related to the piece of land covered in C.S.Dag No.1261/1283 measuring an extent of 0.02 acres and therefore, the petitioner cannot pray for a direction on the respondents 1 to 3 for delivery and handing over of shop No.7 to the petitioner on the premise that the said shop has been allotted to her late grandfather namely R.K.Gopalsana Singh vide allotment order dated 5.2.2011.

24. As per the statement of the official respondents, the grandfather of the petitioner namely R.K.Gopalsana Singh and the allottee of shop No.7 of Ngari Dukan namely R.K.Gopalsana are different persons, which will stand proved from the averments set out in paragraph 6 of the affidavit-in-reply filed by the petitioner. In paragraph 6, it has been stated as under:

“6. That it is learnt from the reliable sources that there are many vacant Dukan plot on first floor of Ima Keithel under the Imphal Municipal Corporation. Hence, since the land in question of the petitioner’s grandfather measuring an area of 0.02 acres was demolished without due process of law and since the aforesaid shop no.7 of Ngari Dukan at Khwairamband Bazar and compensation amount of Rs.57,138 was handed over to one Shri R.K.Gopalsana Singh

who is not the grandfather of the petitioner, the present deponent is entitled to receive adequate compensation with Dukan plot lying vacant at Ima Keithel on first floor or any available shop site under the Imphal Municipal Corporation. In such a situation, the present deponent humbly prays before the Hon'ble High Court to direct the respondents concerned to allot the Dukan plot lying vacant at Ima Keithel on first floor or any available shop under the Imphal Municipal Corporation with adequate compensation for the ends of justice."

25. Since the petitioner herself admitted that R.K.Gopalsana Singh, who was allotted shop no.7 of Ngari Dukan is not her grandfather, the plea of the petitioner that shop no.7 of Ngari Dukan was allotted to her grandfather and therefore, the same has to be handed over to her cannot stand in the eye of law. However, it is clear from the records that no alternative land, in lieu of the piece of commercial land under Patta No.87/627 covered by C.S.Dag No.1261/1283 measuring an area of 0.02 acre under the revenue village No.87 of Imphal West Tehsil owned by the grandfather of the petitioner acquired by the State respondent, has been given either to the petitioner's grandfather or father of the petitioner or the petitioner. There is

also no whisper in the affidavit-in-opposition filed by the respondents 2 and 3 qua the allotment of alternative land to the grandfather of the petitioner.

26. Earlier when the petitioner filed W.P.(C) No.850 of 2017 for the same relief for quashing of the order dated 12.5.2017, this Court disposed of the writ petition on 16.5.2019. In paragraphs 3 to 6, this Court observed as under:

“[3] The writ petition has been filed challenging the impugned order dated 12.05.2017 (Annexure-A/9) where under, the representation of the petitioner dated 11.06.2014 and reminder dated 05.08.2016 was considered in the light of this Court’s order dated 05.10.2016 passed in W.P.(C) No.760 of 2016, and the said representation was rejected holding that the claim of the petitioner cannot be acceded to because the land claimed by the petitioner as her land is a State land, and the land proposed for allotment by the petitioner is recorded in the name of Secretary, Planning and Development Authority, Manipur. On that premise, the request of the petitioner was rejected by impugned order dated 12.05.2017 (Annexure-A/9) passed by the Deputy Secretary (Revenue), Government of Manipur.

[4] Since there involves issue on the fact as to whether the land belongs to the authority as specified above or to the petitioner as claimed by the petitioner, an opportunity of further hearing can be considered before the Commissioner (Revenue), Government of Manipur.

[5] In view of the above, the petitioner is at directed to pursue her remedy by filing an application to the higher authority, namely, Commissioner (Revenue), Government of Manipur within 4 (four) weeks from the date of receipt of a copy of this order. The same shall be considered and disposed of by the authority within 12 (twelve) weeks thereafter.

[6] Writ petition stands disposed of as above. The petitioner is at liberty to pursue other remedies, if aggrieved by the order of the Commissioner (Revenue), Government of Manipur.”

27. As against the order dated 16.5.2019 passed in W.P.(C) No.850 of 2017, no appeal has been preferred by either of the parties and, as such, the order attained finality.

28. As stated supra, the petitioner has challenged the very same order dated 12.5.2017 in this writ petition contending

that the same has been passed in violation of the order dated 24.5.1983 passed by the Deputy Commissioner (Central), Manipur and also the judgment of this Court dated 30.5.2008 passed in RFA No.4 of 2001. As per the said two orders, the land in question, namely Patta No.87/627 under C.S. Dag No.1261/1283 of Uripok, Imphal West Tahsil measuring an extent of 0.02 acre, that belonged to the grandfather of the petitioner is not a Government khas and it is patta land of the petitioner's grandfather. However, in the impugned order dated 12.5.2017, in paragraph 3, it has been stated as under:

“3. Whereas, as per 1960 survey record, the land in question which is covered by C.S. Dag No.1261/1283 (old) under patta No.87/627 (old) measuring 0.02 acre situated at 87-Uripok was recorded as State Land (Dukan) which was encroached and possessed by Gopalsana Rajkumar S/o (L) Sanatomba of Uripok Maning.”

29. The aforesaid observation of the Deputy Secretary (Revenue), Government of Manipur made in the impugned order is not sustainable, in view of the finding arrived at by this Court in the earlier paragraph of this order. As admitted by the State respondents in the earlier proceedings before the revenue

officials and this Court, the petitioner's grandfather is the pattadar of the land in C.S. Dag No.1261/1283 (old) under patta No.87/627 (old) measuring 0.02 acre.

30. As could be seen from the records, narrating the entire facts, a detailed representation dated 12.4.2021 has been submitted by the petitioner to respondents 1 and 4 praying to allot an alternative land/shop plot under construction by Imphal Municipal Corporation at Sanakeithel, Lamphel as well as compensation amount of Rs.57,138/-. According to the petitioner, despite receipt of the said representation, no order has been passed on it till date.

31. Since the petitioner established her grandfather's right over the land in C.S. Dag No.1261/1283 (old) under patta No.87/627 (old) measuring 0.02 acre and despite requests made by the petitioner's grandfather, her father and herself, no alternative site has been provided so far, the prayer of the petitioner in this writ petition to set aside the impugned order dated 12.05.2017 is genuine. Since the land/shop in question of the petitioners' grandfather was demolished without due process of law and the same was acquired under acquisition, the interest of justice warrants the respondent authorities to give an alternative land/shop to the petitioner.

32. For the foregoing discussions, this Court is of the view that the impugned order dated 12.5.2017 passed by the Deputy Secretary (Revenue) is unsustainable in the eye of law for the reason that the Deputy Secretary (Revenue) has failed to consider the earlier revenue records that stood in the name of the petitioner's grandfather in respect of the land in question. Since the petitioner established that her grandfather is the owner of the land in C.S. Dag No.1261/1283 (old) under patta No.87/627 (old) measuring 0.02 acre, which was later on acquired by the respondent authorities and in lieu of acquisition no alternative land and/or compensation paid either to the petitioner's grandfather or her father and she being the legal heir, now she is entitled to get the alternative shop from the respondent authorities. In view of the above, the impugned order is liable to be set aside. Further, the respondent authorities have to consider allotment of alternative shop which is lying vacant at Ima Keithel on the first floor or any available shop under the fourth respondent with adequate compensation to the petitioner.

33. In the result,

- (i) *The writ petition is allowed.*
- (ii) *The impugned order dated 12.5.2017 is set aside.*

- (iii) *The respondent authorities are directed to allot shop lying vacant at Ima Keithel on first floor or any available shop under the Imphal Municipal Corporation with adequate compensation.*
- (iv) *The aforesaid exercise is directed to be completed within a period four weeks from the date of receipt of a copy of this order.*
- (v) *There will be no order as to costs.*

ACTING CHIEF JUSTICE

FR/NFR

Sushil