

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

WP(C)No.364 of 2023

Lunkholal Haokip, aged about 45 years, S/o (L) Paothang Haokip, of
Majuron Kuki Hill Village, PO & PS Churachandpur, Churachandpur
District, Manipur, Pin-795128.

...Petitioner

- Versus -

1. State of Manipur represented by the Chief Secretary, Government of Manipur, at Babupara, Imphal, PO & PS Imphal, Imphal west District, Manipur, Pin-795001.
2. The Principal Chief Conservator of Forest & Head of Forest Force, Government of Manipur, Forest Headquarters, at Sanjenthong, PO & PS Imphal, Manipur, Pin-795001.

...Respondents

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

20.04.2023

Heard Mr.N. Mahendra, learned counsel appearing for the petitioner and Mr. Lenin Hijam, learned Advocate-General for the respondents.

2. This writ petition has been filed by the petitioner to quash the impugned Office Memorandum dated 7.11.2022 issued by the second respondent and to restrain the respondents from interfering with the peaceful possession and enjoyment as owner of Majuron Kuki Hill Village of Churachandpur District.

3. Assailing the impugned Office Memorandum dated 7.11.2022, the learned counsel for the petitioner submitted that the action of the respondents in evicting the petitioner from his ancestral dwelling place/land is arbitrary. He would submit that the right not to be deprived of the property save by authority of law is a constitutional right as observed by the Hon'ble Apex Court in the case of *Bishamber v. State of UP*, AIR 1982 SC 33. The possession, use and enjoyment of the land owned by the petitioner cannot be deprived. The petitioner apprehends that he might be forcibly evicted at any time from his rightful land which is in his possession, use and control for many long years.

4. Arguing further, the learned counsel for the petitioner submitted that the petitioner being the Chief of the village is the absolute owner in possession of its village land and the petitioner's village is Hill House Tax paying village. As many as 38 villages, including the village of the petitioner has issued the impugned Office Memorandum under the guise of protecting forest land and properties. The respondents or their subordinate officers have been indulging in

the demolition drive illegally even without affording of reasonable time to the land owners.

5. The learned counsel for the petitioner urged that what was settled for more than fifty years ago had been unsettled illegally by the second respondent by issuance of the impugned Office Memorandum. Thus, a prayer has been made to set aside the impugned Office Memorandum dated 7.11.2022 and to restrain the respondents from interfering with the peaceful possession and enjoyment of the land in question.

6. Supporting the issuance of the impugned Office Memorandum, Mr. Lenin Hijam, the learned Advocate-General submitted that after conducting an enquiry qua validity of the orders issued by the Assistant Settlement Officers thereby excluding lands from the scheduled land of boundaries of Churachandpur-Khoupum Protected Forest and after considering the statutory provisions of the Indian Forest Act, 1927 along with the revenue records, it has been declared that the exclusion orders issued by the Forest Settlement Officer/Assistant Settlement Officer are void abinito and non-est, as the said authority had no authorization whatsoever from the State Government to exclude or set apart the villages to the private parties and, accordingly, issued the impugned Office Memorandum cancelling all such orders issued by the Assistant Settlement Officers/Forest Settlement Officers excluding the forest lands from all

other Protected Forests of the State with immediate effect. Therefore, there is no illegality in issuing the impugned Office Memorandum by the second respondent and, in fact, the petitioner has no right to question the impugned Office Memorandum. Thus, a prayer has been made to dismiss the writ petition.

7. The grievance of the petitioner is that he is the Chief of Majuron Kuki Hill Village of Churachandpur District, Manipur having well defined boundary as north – KhonajangLok; south – Songvong village; east – Leimatak river and west – Tomjang Lok and Tuilla. Majuron Kuki Hill Village has been in existence for many years even prior to the advent of Britishers in Manipur. The petitioner's village is an un-surveyed village having its own land under possession, use, continuous physical occupation by the petitioner and his villagers and, as such, the petitioner being the Chief is the absolute owner in possession of its village land by paying Hill House Tax. While so, under the guise of protecting forest land and properties, the second respondent had issued the impugned Office Memorandum and is trying to evict the petitioner illegally from the land in question at any time.

8. On a perusal of the impugned Office Memorandum, it is seen that the State Government, after thorough enquiry, had cancelled the orders issued by the Assistant Settlement Officers setting aside/excluding forest areas in favour of different village from

Churachandpur-Khoupum Protected Forest and the village of the petitioner is found at Serial No.23 of the impugned Office Memorandum. The further perusal of the impugned Office Memorandum shows that all orders issued by the Assistant Settlement Officers excluding the forest lands from all other Protected Forests of the State are cancelled and fresh inquiries of the nature and extent of rights of private person/individual/community prior to the notifications of the Protected Forests are directed to be carried out in all the Protected Forests of the State as per the provisions of Section 29 of the Indian Forest Act, 1927. Thus, apprehending the eviction proceedings likely to be initiated by the respondent authorities, the petitioner has approached this Court alleging that without affording reasonable opportunity to the affected parties, forcible eviction cannot be carried out.

9. Admittedly, the impugned Office Memorandum was issued pursuant to the Cabinet decision and nearly 38 villages were identified and listed out in the impugned Office Memorandum thereby cancelling the orders issued by the Assistant Settlement Officers/Forest Settlement Officers excluding the forest lands from all other Protected Forests of the State. Therefore, the action of the respondent authorities cannot be questioned by the petitioner claiming right over the land. Therefore, this Court exercising jurisdiction under Article 226 of the Constitution of India cannot interfere with the impugned Office Memorandum. That apart, the impugned Office Memorandum has

been issued not only to the petitioner's village but also 37 other villages. Anyhow, any action regarding eviction pursuant to the impugned Office Memorandum has to be carried by the respondent authorities under due process of law only and the respondent authorities cannot forcibly evict the petitioner from the land in question taking law in their own hands.

10. Accordingly, the writ petition is disposed of. The respondent authorities are directed to follow due process of law in evicting the petitioner from the land in question. There will be no order as to costs.

ACTING CHIEF JUSTICE

NFR/FR

John Kom