

Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 2 of 2019

Date of Decision: 05.05.2023

Shri. Leequa Mukhim

Vs.

State of Meghalaya & Ors.

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. L. Nghaka, Adv.

For the Respondent(s) : Mr. N.D. Chullai, AAG with
Mr. A. Kharwanlang, GA (For R 1-4)
Mr. V.G.K. Kynta, Sr. Adv. with
Ms. C. Nongkhlaw, Adv. (For R 5-7)
Mr. K.S. Kynjing, Sr. Adv. with
Ms. A.D. Syiem, Adv. (For R 8)
Mr. D.R. Chen, Adv. (For R 9)
Mr. L. Khyriem, Adv. (For R 10)
Ms. S.K. Nongrum, Adv. (For R 11).

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| i) | Whether approved for reporting in Law journals etc.: | Yes/No |
| ii) | Whether approved for publication in press: | Yes/No |

JUDGMENT AND ORDER

1. The facts of this case in a narrow compass is that the petitioner's Patta, indicating his right over a plot of land situated at Laitkor Nongdaneng, Shillong-10, was cancelled by the Respondent No.8, ostensibly without he being heard or being allowed to participate in the inquiry proceedings, instituted by the District Council respondents, in connection with rival claims over the said land.

2. It has been contended by Mr. L. Nghaka, learned counsel for the petitioner that, the petitioner had acquired ownership rights over a plot of land measuring 156 acres more or less, situated at Laitkor Nongdaneng, Shillong-10, on the same being bought from the respondent No. 11 by Deed of Sale dated 05.07.2016, who in turn had possessed the land by virtue of a Gift Deed dated 10.10.1988, executed by his mother. Thereafter he submits, a Patta being No. 165 of 2017, had been issued by the respondent No. 8 (Syiem of Myllem), in recognition of this right, but subsequently on September 2018, the petitioner was served with a summons dated 21.09.2018, issued by the respondent No. 7, asking him to appear before the Inquiry Officer in connection with the said plot of land. The learned counsel submits thereafter, pursuant to the purported inquiry, the respondent No. 8,

cancelled the Patta and confirmed the ownership of the respondent No. 10, over the plot of land, without the petitioner being afforded any opportunity of hearing. It has been urged that, this is the main grievance of the petitioner in writ petition, notwithstanding other attendant facts and circumstances.

3. The State respondents who have been arrayed as respondents No. 1-4, have filed an affidavit and also challenged the maintainability of the writ petition, on the ground that, apart from the writ petitioner approaching this Court, with unclean hands, he is seeking to achieve wrongful gains by resorting to the instant proceeding under Article 226 of the Constitution, to try to establish non-existent rights, inasmuch as, the entire case and issues raised are hit by the Principles of Res judicata. Mr. N. D. Chullai, learned AAG assisted by Mr. A. Kharwanlang, learned GA for the State respondents submits that the land in question forms part of the Laitkor Protected Forest Compartment No. 6, which had been leased out in perpetuity, to the then British Government vide lease document dated 02.12.1874, and that with the lapse of British paramountcy, the land vests with the State of Meghalaya, a position that has been affirmed even by a Full Bench Decision of the Gauhati High Court in the case of *Nongkhlaw Clan & Ors. vs. Union of India & Ors.* reported in *1997 (II) GLT 652 (FB)*. Learned AAG has also drawn the

attention of this Court to the lease document which is annexed to the affidavit.

4. It is further submitted that, the respondent No. 8, does not possess any right or authority to issue any Patta, as the said land is under the possession and control of the respondent No. 1. It has also been submitted that, the respondent No. 4 (The Divisional Forest Officer, Government of Meghalaya), on coming to learn about these illegalities, had issued a letter dated 22.03.2017, which is annexed to the affidavit, informing the respondent No. 8, that the said land is part of the Laitkor Protected Forest Compartment No. 6, and directed cancellation of the said Pattas. The learned AAG submits that, the entire transaction and transfer of the said land as narrated by the writ petitioner is unsustainable, inasmuch as, firstly, the respondent No. 11 was never in possession of the said land and further, the purported documents such as Sale Deeds and Deed of Declaration enclosed to demonstrate title, cannot be relied upon, or withstand any legal scrutiny as the same are unregistered, and are void.

5. Learned AAG submits that, the matter received the attention of the State respondents, when the respondent No. 4, was informed by the Air Force Authorities, that the respondent No. 11 had approached them with a copy of a Patta, and offered the said land for sale. Thereafter he

submits, to ascertain and verify as to the exact location of the land, a joint inspection was fixed and the petitioner was informed to be present, as also the respondent No. 11. However, he submits on the date fixed, the petitioner and the respondent No. 11 did not choose to attend, but the respondent No. 10 along with relatives were present, and the finding which was communicated vide letter dated 07.12.2017 (Annexure – 8 to the affidavit), showed that, the land in question claimed by the petitioner was part of the Compartment No. 6 of Laitkor Protected Forest. He lastly submits that, the entire transaction between the petitioner and the respondent No. 11 being illegal and made with a view to achieve wrongful gain, the writ petition deserves to be dismissed.

6. From the submissions of the counsels of the other respondents and the affidavits filed on their behalf, namely, the respondent No. 8 (The Acting Syiem of Myllem Syiemship), respondent No. 9 (Headman Laitkor Nongdaneng), respondent No. 10 (Smti. Akrisha Myllemipdah), another claimant to the said land, respondents No. 11 and 12 (Shri. Hirobanistar Myllemipdah and Shri. Depend Mohon Roy Myllemipdah), it appears that claims and counter claims including a Title Suit before the District Council Court, apart from the inquiry proceedings before the District Council Authorities, and Syiem of Myllem, there has been a keen tussle to claim ownership rights over the

land in question. The respondent No. 8, has however made a pertinent averment in his affidavit that, the petitioner had been issued notice vide letter dated 10.08.2018, to appear on 16.08.2018, to show cause along with relevant documents, to substantiate his claim, which was refused by the writ petitioner, a fact which has been substantiated by a report of the Peon, who went to serve the petitioner on 14.08.2018 (Annexure – 2 to the additional affidavit of the respondent No. 8).

7. Having heard the learned counsels for the parties, from the submissions and materials placed before this Court, the controversy in the matter, appears to be confusing and complicated with proceedings being conducted at different levels and before multiple authorities, which surely would lie outside the realm of a proceeding under Article 226 of the Constitution. However, shorn of all the other details, the grievance of the writ petitioner is centered around the impugned cancellation of his Patta, which he has alleged was done without affording him an opportunity of hearing. The other prayers made in the writ petition, such as, to quash certain land documents made in favour of the respondent No. 10, and for directions to the respondents not to interfere with the possession and ownership of the petitioner over the land in question, are unsustainable before a writ Court.

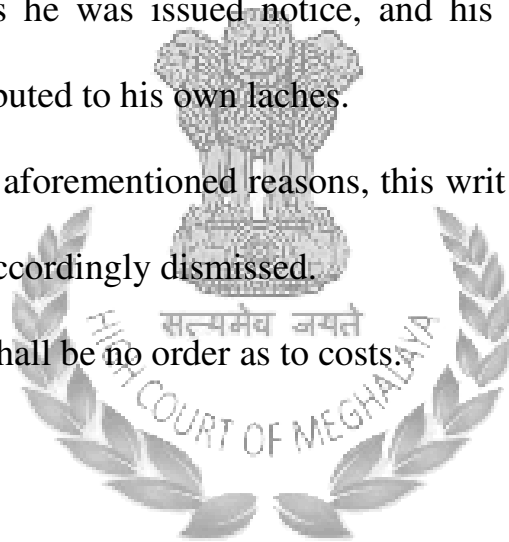
8. On another aspect, the case put up by the State respondents cannot be ignored, as the stand taken by them is supported by credible documentation and evidence. This observation is made in view of the fact that, the lease document made in favour of the then British Government in 1874 of lands, which include land in question has not been rebutted or any material produced to the contrary. In fact, the respondent No. 10, who also claims the same land in question has also annexed the lease documents in her affidavit. Another aspect which is equally important is that, the entire episode with regard to the purported transaction and sale of the land between the respondent No. 11 and the writ petitioner, and the subsequent offer to sell to the Air Force Authorities, as also the other collateral proceedings before the Syiem of Myllem and the District Council Courts, was not to the knowledge of the State respondents, who appear to have been kept in the dark. As narrated on affidavit by the State respondents, it is only after the offer was made to the Air Force Authorities, that the matter came to light and steps were then initiated to redeem the situation.

9. Coming back to the grievance of the writ petitioner that, he was not heard or afforded adequate opportunity, the materials produced by the parties and his own admission speak otherwise. It is noted that, he was served with notice to appear before the respondent No. 7, and

declined to do so, refused notice to appear before the respondent No. 8, and inspite of service of notice, failed to appear in the inquiry conducted by the State respondents to ascertain and verify the location of the land in question. Though, the proceedings before the respondents No. 7 and 8, now seem inconsequential, in view of the larger picture with the entrance of the State respondents into the arena, the case of the petitioner that he was not heard, apart from losing any importance, is also incorrect as he was issued notice, and his non-participation can squarely be attributed to his own laches.

10. For the aforementioned reasons, this writ petition being devoid of any merit is accordingly dismissed.

11. There shall be no order as to costs.



Judge

Meghalaya
05.05.2023
"D.Thabab-PS"