

HIGH COURT OF MEGHALAYA
AT SHILLONG

MC (WPC) No. 5 of 2023 in
WP(C) No. 519 of 2022

Date of Decision: 15.02.2023

Chairman/Rangbah Shnong Vs. Smti Philamon Mawrie & Ors.
Laitumkhrah Dorbar Shnong & Anr.

Coram:

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

Appearance:

For the Petitioner(s)/Applicant(s) : Mr. N. Syngkon, Adv. with
Ms. M. Kharkongor, Adv.

For the Respondent(s)/Opp. Parties: Mr. V.G.K. Kynta, Sr. Adv with
Mr.H.W. Wanshong, Adv.(For R 1)
Mr. S. Sen, Sr. GA (For R 2-4)

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

JUDGMENT AND ORDER (ORAL)

1. This is an application under Article 226 (3) of the Constitution of India for vacating the interim order dated 16.12.2022, passed by this Court in WP(C) No. 519 of 2022.

2. This Court by order dated 16.12.2022, as far as it concerned the impugned letter dated 12.11.2022, had in the interim stayed the said

letter until further orders. The applicants herein have been arrayed as respondent No. 4 and 5 in the main writ petition, and by way of this instant Misc. application, have brought on record the fact that the said land in question has already been donated by one (Late) U Mon Lyngdoh, as far back as in 1935, to the Shillong Municipality.

3. It has been argued by Mr. N. Syngkon, the learned counsel for the applicants that the said land has always been under the management, control and occupation of the said respondents/applicants, and further that the claims of the petitioner is without any substance as firstly, the locus has not been established, and no semblance legal right shown with regard to the field/land. The learned counsel also submits that there is nothing to show in which manner the writ petitioner is aggrieved with the impugned order or which right that has been violated.

4. Mr. V.G.K. Kynta, learned Senior counsel assisted by Mr. H.W. Wanshong, learned counsel for the petitioner (opposite party/respondent No. 1 herein), has placed reliance on the affidavit filed, and at the outset has submitted that this writ petition has been occasioned in view of the fact that the impugned order has effectively extinguished the petitioner's rights over the land, inasmuch as, by reading the same, it is reflected that the entire control, and even settlement of disputes over the same are vested with the respondents No. 4 and 5. He however, fairly concedes that this Court under Article 226 has no jurisdiction to decide on

title or ownership, and the same should be before the appropriate forum, that is the competent Civil Court.

5. Mr. S. Sen, learned Sr. GA on behalf of the respondent No. 1, 2 and 3 (respondent No. 2, 3 and 4 herein) has also submitted that the impugned order has no effect on the rights and claims of the petitioner, inasmuch as, the order has been passed in public interest. He further submits that the said letter has a genesis to the earlier proceedings i.e. the meeting held on 25.02.2020, which was convened and chaired by the Deputy Commissioner, wherein it has been resolved therein that the complainants (writ petitioner) were to withdraw the objections, while maintaining that the Dorbar Shnong should address the matter suitably at the earliest. The learned Sr. GA further submits that it is in this context that the impugned letter has been passed, and that it has no bearing or does it seeks to identify the rights or claims, or settle the rights and claims of the parties. He therefore, submits that the writ petition is misconceived and deserves a detailed affidavit to the averments made therein.

6. I have heard the learned counsel for the parties and perused the materials on record.

7. From the submissions of the parties, it is clear and undisputed that the said ground in question, has been used for a considerable period of time in public interest, and has been under the management of the local Dorbar for its use. It is also noted that claims that has been raised by the

writ petitioner is in the nature of title dispute, which is to be established by a competent Civil Court. As rightly pointed out, no substantial materials has been placed nor her locus been established, to maintain her claims, at this stage.

8. In this backdrop, it is therefore necessary to examine the nature of the impugned order. A plain reading of the same, indicates that the order was passed to avoid any disruption in the use of the ground, as also the programmes that have been scheduled, and in fact it only reiterates that the usage of the ground should be maintained as per the established procedures. No reference has been made in the impugned order with regard to title, claims or rights of the petitioner to the said land, that has adversely affected the writ petitioner in any manner.

9. This Court, is of the considered view that the impugned letter has been issued plainly in public interest, and has not deprived or violated any right of the petitioner, but that the continuance of the interim order dated 16.12.2022, however, may create a misunderstanding that may give rise to an uncertain situation. Accordingly, the said interim order dated 16.12.2022, stands vacated.

10. The instant Misc. Case is disposed of.

JUDGE

Meghalaya
15.02.2023
"V. Lyndem-PS"