

Serial No. 30
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 459 of 2022

Date of Decision: 26.09.2023

Shri. Pablo Sangma

Vs.

State of Meghalaya & 5 Ors.

Coram:

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

Appearance:

For the Petitioner/Appellant(s) : Mr. P.T. Sangma, Adv.

For the Respondent(s) : Ms. S. Bhattacharjee, GA (For R 1 & 2)
Mr. Philemon Nongbri, Adv. (For R 3 & 4)
Mr. S. Dey, Adv. (For R 5 & 6).

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

Oral:

1. The petitioner, who is stated to be the absolute owner of a plot of land situated at Anandamath Tura, West Garo Hills, is aggrieved with the persons alleged to be Sweepers of the respondents No. 3 and 4,

who are occupying a portion of his land and by this writ petition is seeking their eviction and payment of rents for their said illegal occupation.

2. It has been contended that the said employees/Sweepers of the respondents No. 3 and 4, have been staying in the property of the writ petitioner since 1984, without payment of any rent nor with any legal documentation allowing them to do the same. The prayer in the writ petition is for relocation of the staff of the respondents staying therein from the land of the petitioner, and also for payment of monthly rents of Rs.50,000/- (Rupees Fifty Thousand) only w.e.f. 10.05.2022, the date on which the present petitioner has agitated the same before the respondents No. 3 and 4.

3. Mr. Philemon Nongbri, learned counsel on behalf of the respondents No. 3 and 4, has submitted that the persons stated to be in occupation of a portion of the land of the writ petitioner, are not regular employees of the respondents No. 3 and 4, and that their occupation of the land of the writ petitioner or of his predecessor in interest was because of a landslide that had occurred on 28th July, 1984, and though attempts have been made to relocate them, the same had been met with refusal. At this stage, it is submitted that the respondents No. 3 and 4, with a view to resolve the matter had also mooted that a census of the

people staying in the said land be undertaken and to ascertain whether all of them are regular employees of the said respondents. It is however, also been submitted that the occupation by the persons, who have not been arrayed as parties in the present writ petition, had occurred before the present petitioner or his mother, were settled with this plot of land.

4. Mr. S. Dey, learned counsel on behalf of the District Council, has submitted that it is not disputed that the writ petitioner is the present owner of the land by inheritance, and that the periodic Lease Patta has also been issued in his favour on 18.08.2020. The only other submission made is that disputed facts has been raised by the writ petitioner in the matter, that cannot be agitated in a proceeding under Article 226 of the Constitution.

5. Having heard the learned counsels for the parties, firstly, it is noted that the land in question, which was known as the Old Sweepers Colony, was in existence before Independence, and was the place where the Sweepers were accommodated at that point of time, and were under the direct control of the Deputy Commissioner. With the creation of the Garo Hills Autonomous District Council and with the advent of the Tura Town Committee, a new colony for the Sweepers was established and all the Sweepers were then given accommodation therein. The Old Sweepers Colony on the relocation of the Sweepers

was abolished and was settled with two individuals, one of them being Smti. Felicitha K. Marak, who then transferred a portion of the land to the mother of the present owner. It appears that the re-occupation of the Old Sweepers Colony on the land, which has since been settled to private individuals happened due to a landslide on 28th July, 1984, where one house of the Sweepers was destroyed and lives lost. Ten families whose names have been detailed in a letter dated 14.08.1987 by the respondents No. 3 and 4, were then shifted to the Old Sweepers Colony. It appears from the materials on record that thereafter, there was an attempt in the year 1987, on the reconstruction of the building for the sweepers, to accommodate them back to the New Sweepers Colony, which however was refused by the said persons and the situation has since remained the same.

6. Is it also to be noted that at the time of the re-occupation of the sweepers in 1984, which had happened due to landslide, the predecessor in interest of the writ petitioner was not the owner in possession of the said plot of land. It was only after the mother of the petitioner had come into possession, and on a complaint filed by her, that the Settlement Officer, GHADC had communicated that the matter should be taken up before the Tura Municipal Board. Thereafter, after a lapse of considerable time, the writ petitioner then approached this

Court by way of WP(C) No. 30 of 2021, and this Court by order dated 09.02.2021, allowed the writ petitioner to make an appropriate representation before the concerned respondents. On receipt of a reply dated 14th July, 2021, wherein the respondents had indicated that a census of the employees residing in the plot of land would be undertaken and that attempts to relocate shall thereafter be made, the petitioner has again re-agitated the matter before this Court without waiting for any outcome of the letter dated 14th July, 2021 of the respondents.

7. This entire dispute it is seen, centers around the purported illegal occupation of the persons who are stated to be employees of the Tura Municipal Board, and as discussed above, the matter is yet to be conclusively determined by the respondents. Further, it is also seen that the writ petitioner has not placed any materials on record showing the extent of the land under occupation, the persons or identities occupying the same, or the nature of structures which are under occupation in the said land. In this regard also, since the matter basically being one for eviction and for recovery of a damages for unlawful occupation, adequate alternative remedy exists for which the petitioner can take recourse to or avail of.

8. In the considered view of this Court, apart from the writ petitioner being premature, as the matter is still under consideration by the respondents No. 3 and 4, and in view of the disputed facts that have been raised, which cannot be discerned in a proceeding under Article 226 of the Constitution, this writ petition deserves no consideration and the same is accordingly dismissed.

Judge

Meghalaya
26.09.2023
"D.Thabak-PS"

