

GAHC040000902023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : IA(C) 19/2023

1:The Director
Arunachal Pradesh, Energy Development, Itanagar, Arunachal Pradesh.

VERSUS

1:Smti Tana Yami
Wife of Shri Tana Nemkam Tara, Age 54 years, Resident of Huto village, PO and PS
Doimukh, District Papum Pare, Arunachal Pradesh

Advocate for the Petitioner : Goto Ete

Advocate for the Respondent : Taba Tagum

BEFORE
HONBLE MR. JUSTICE NANI TAGIA

ORDER

Date : 24-01-2023

Heard Ms. G. Ete, learned Addl. Senior Government Advocate for the applicant/State/respondent No.5 and Mr. T. Tagum, learned counsel for the opposite party/writ petitioner.

This is an application filed for modification/alteration/vacation of the order dated 04.05.2022, passed by this Court in WP(C)167(AP)2022, whereby *status quo* as on 04.05.2022 was directed to be maintained by the parties to the

WP(C)167(AP)2022.

The opposite party/writ petitioner had filed the writ petition being WP(C)167(AP)2022, challenging the letter issued to the writ petitioner by the Sub-Divisional Officer, Papum Pare District, dated 24.11.2021, vide No.DMK/EM-07/2014/9752.

A perusal of the aforesaid letter dated 24.11.2021 impugned in the writ petition reveals that a land measuring 5734 Sq.Mtrs. at Huto village under Doimukh Circle was allotted to the Rural Works Department, Itanagar during the year 1992, which was, at a later point of time handed over to the Arunachal Pradesh Energy Development Agency(APEDA) on 12.09.1997 for utilization of the land by the APEDA. The letter further reveals that a land measuring 2712 Sq.Mtrs has been encroached by Smti. Tana Aruna, wife of Shri Tana Nekam within the allotted land of APEDA. On the basis of the above, the petitioner has been issued the impugned letter dated 24.11.2021, directing her to refrain from doing any activity(-ies) within the allotted land of APEDA at Huto village, failing which, necessary action shall be initiated against as per the provision of law.

In assailing the impugned letter dated 24.11.2021, the opposite party/writ petitioner contends in the writ petition that the writ petitioner has been issued a Land Possession Certificate(LPC) measuring 36747 Sq.Mtrs by the the then Deputy Commissioner, Papum Pare District, Yupia, vide No.DC/LM/LPC-13/08, dated 14.02.2014.

The boundary description of the Land Possession Certificate allotted to

the petitioner is: *in the North:- Railway line; in the South:- Dikrong River/Y. Tajum; in the East:- Road/Tana Byori/Teshi Yami and in the West:- Dikrong river.* While referring to the aforesaid LPC issued by the then Deputy Commissioner, Papum Pare District, Yupia, in favour of the petitioner, it is the case of the petitioner in the writ petition that the land allotted to the Rural Works Department initially and now, used by the APEDA falls within the land of the petitioner, for which she has been allotted an LPC dated 14.02.2014 by the then Deputy Commissioner, Papum Pare District, Yupia and the said land having not been acquired by the Government from the petitioner in accordance with law, relating to the land acquisition, the said land of the petitioner cannot be allowed to be used by the APEDA.

In the instant interlocutory application filed, seeking modification of the order dated 04.05.2022 passed in the WP(C)167(AP)2022 by this Court, the applicant/APEDA has stated that out of the land measuring 5734 Sq.Mtrs. allotted to the Rural Works Department/APEDA at Huto village under Doimukh Circle, a land measuring 2712 Sq.Mtrs. overlaps with the Land Possession Certificate issued to the opposite party/writ petitioner by the then Deputy Commissioner, Papum Pare District, dated 14.02.2014.

The root cause of this litigation over a plot of land at Huto village under Doimukh Circle between the APEDA and the respondent/writ petitioner, Smti. Tana Yami appears to be the Land Possession Certificate, dated 14.02.2014, issued to the writ petitioner by the then Deputy Commissioner, Papum Pare District, Yupia, vide No.DC/LM/LPC-13/08, dated 14.02.2014, covering the land measuring 2712 Sq.Mtrs., which is stated to have already been allotted to the Rural Works Department/APEDA in the year 1992. No material(s) have been

produced before this Court by the applicant/APEDA or any of the State respondents indicating that any action has been taken to the then Deputy Commissioner, Papum Pare District, Yupia, who had issued the Land Possession Certificate to the opposite party/writ petitioner, dated 14.02.2014 leading to an overlapping of an allotment of a land to the extent of 2712 Sq.Mtrs. of land of the APEDA, which land was already allotted to the Rural Works Department/APEDA way back in the year 1992.

In view of the State Government not taken any action, disciplinary or otherwise, to the then Deputy Commissioner, Papum Pare District, Yupia, for issuing the Land Possession Certificate dated 14.02.2014 in favour of the opposite party/writ petitioner in the manner indicated above, I am of the view that the writ petition itself may be heard and accordingly, no modification of the order dated 04.05.2022 passed by this Court in WP(C)167(AP)2022 is called for at this stage.

The interlocutory application stands disposed of.

JUDGE

Comparing Assistant