

GAHC040005042022



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

**Case No. : WP(C)/167/2022**

Tana Yami  
W/o Shri Tana Nekam Tara.  
Resident of Huto Village, PO/PS Doimukh, District Papum Pare, Arunachal Pradesh.

VERSUS

THE STATE OF AP and 7 Ors.  
Represented by the Secretary, Department of Land Management, Govt. of A.P,  
Itanagar        2:The Secretary  
Age: 0  
Occupation :

3:The Secretary  
Age: 0  
Occupation :

4:The Director  
Age: 0  
Occupation :

5:The Director  
Age: 0  
Occupation :

6:The Deputy Commissioner  
Age: 0  
Occupation :

7:The Sub Divisional Officer  
Age: 0  
Occupation :

8:Hina Ajan Nabam  
Age: 0  
Occupation

**Advocate for the Petitioner** : Taba Tagum

**Advocate for the Respondent** : Dugmar Kamduk

**BEFORE  
HONBLE MR. JUSTICE NANI TAGIA**

**ORDER**

**Date : 12.09.2023**

Heard Mr. D. Majumdar, learned counsel for the petitioner. Also heard Ms. G. Ete, learned Addl. Senior Government Advocate representing the State respondents no. 5, 6 & 7.

None has appeared for the remaining respondents.

**2.** This writ petition has been filed with the following prayers, which are reproduced herein below:-

(i). Writ in nature of certiorari shall not be issued for setting aside and quashing of impugned prohibitory order issued by Sub-Divisional Officer, Doimukh vide impugned Memo No. DMK/EM-07/2014/9752, dated 24-11-2021, whereby petitioner has been directed to refrain from doing any activities within the land in question which is in fact private land of the petitioner.

(ii). Writ in nature of certiorari shall not be issued for setting aside and quashing of impugned notification issued by Secretary (Land Records) Govt. of A.P, Itanagar vide

impugned notification No.LR-4/91, dated 13-03-1992, issued on 25-03-1992, being null & void having lapsed in terms of section; 11-A of the Land Acquisition Act, 1894.

(iii). Writ in nature of mandamus shall not be issued directing the respondent authority to recall/rescind/cancel and/or otherwise forbear from giving effect to the impugned prohibitory order issued by SDO, Doimukh vide impugned Memo No. DMK/EM-07/2014/9752, dated 24-11-2021.

(iv). Writ in the nature of certiorari should not be issued to set aside and quash other such consequential order/proceeding pursuant to the impugned notification No.LR-4/91, dated 13-03-1992, issued on 25-03-1992, being null & void having lapsed in terms of section; 11-A of the Land Acquisition Act, 1894.

(v). Writ in nature of mandamus shall not be issued directing upon the state respondent to consider and dispose-off representation dated 20-12-2021, submitted by the petitioner before the respondent authority.

**3.** Though this writ petitioner has been filed with as many as 5(five) prayers as indicated hereinabove, Mr. Majumdar, learned senior counsel for the petitioner has submitted that the petitioner will not press for the prayers no. (ii), (iv) & (v), without, however, prejudice to the right of the petitioner on the land in question. In that view of the matter, what calls for determination by this Court, is the legality of the Letter, dated 24.11.2021, issued to the petitioner by the respondent no. 7, the Sub Divisional Officer, Papumpare District, Doimukh, vide Memo No. DMK/EM-07/2014/9752, which is reproduced herein below for ready reference:-

GOVERNMENT OF ARUNACHAL PRADESH  
OFFICE OF THE SUB-DIVISIONAL OFFICER ::PAPUM PARE DISTRICT  
DOIMUKH

NO.DMK/EM-07/2014/9752

Dated Doimukh the 24<sup>th</sup> November' 2021.

To,  
Smti Tana Yami  
Wife of ShriTana Nikam Tara  
Village, Huto  
PO/PS, Doimukh

Whereas, a letter received from the Deputy Commissioner Yupia vide No. DC(PP)Estate-01/2016/2114, Dated 29<sup>th</sup> Oct' 2021 in compliance of the letter from Director APEDA vide No. APEDA/E-733/2021/1361-65, dated 08/10/2021 of the APEDA, Itanagar effect that you are encroaching the allotted land of APEDA vide No.LR-4/91, dated 13/03/1992 an area measuring 5734 Sq. Mtrs at Huto village under Doimukh Circle and thereby issued Notice against the department for vacation of land/properties from the said land.

Whereas it is reveal through the record that the land has been allotted to the Rural Work Department, Itanagar during 1992 after maintaining due procedure and later the same plot of land was handed over to the APEDA vide NO. RWD/Sectt/8/96, dated 12/09/1997 and till then the land is utilizes by the APEDA.

And whereas, it also reveal that the land has been verified by Dr. Nikita Panggam, EAC, Doimukh on ground on 07/06/2021 in presence of GB, ShriTanaTopu, Sri Take Nyokir, Chainman, Shri Tana Deep representative from Smti Tana Aruna and official teams from APEDA and found that the land area measuring 2712, Sq. mtrs has been encroached by Smti Tana Aruna, wife of Shri Tana Nekam within the allotted land of APEDA.

Therefore, you are hereby directed to refrain from doing any activities within the allotted land of APEDA at Huto village, falling which necessary action shall be initiated against as per the provision of law.

Sd/-  
(Sabadam Tayang), APCS  
Sub Divisional Officer  
Papum Pare District  
Doimukh

Memo No. DMK/EM-07/2014

Dated Doimukh the 24<sup>th</sup> November, 2021.

**4.** On perusal of the impugned Letter, dated 24.11.2021, as quoted herein above, it is noticed that the petitioner has been alleged to have encroached 2712 Sq. mtrs of land within the allotted land of the APEDA, the respondent no. 5. Therefore, the petitioner has been directed to refrain from doing any activities within the allotted land of APEDA at Huto village.

**5.** The case set up by the petitioner as well as APEDA, the respondent no. 5 in their respective pleadings, in short, is that the petitioner has been issued with a Land Possession Certificate (LPC) by the Deputy Commissioner, Papumpare District, Yupia, vide Order, dated 14.02.2014, vide no. DC/LM/LPC-19/08, certifying that the petitioner is in possession of 36747 Sq. mtrs of land at Huto village for residential purpose, which land is bounded by in the North—the railway line, in the South—the Dikrong river/Y. Yajum; in the East—Road/Tana Nyori/Teshi Yani and in the West—Dikrong river. Whereas; the respondent no. 5/APEDA had been allotted or in possession of land measuring 5734 Sq. mtrs at Doimukh, which initially was allotted for the Rural Works Department in terms of the Land Acquisition Award, dated 25.04.1992, issued by the Circle Officer, Doimukh, vide memo no. DK/L-31/82, under Section 11 Act-1 of 1894, which was subsequently, handed over to the respondent no. 5/APEDA, after the APEDA was bifurcated from the Rural Works Department.

**6.** According to the respondent no. 5/APEDA, the boundary description of the 5734 Sq. mtrs of land, now owned by the APEDA as per the agreement, dated 19.03.1990, signed between Shri Yowa Agap, S/O Shri Yowa Ekha, GB, Village Doimukh, P.O-Doimukh and the Government of Arunachal Pradesh represented by the Project Officer, IREP Cell, RWD, Doimukh, is in the North

—Fair weather road and Land of Shri Yowa Agap; in the South—Dikrong river; in the East—Land of Shri Yowa Agap and in the West—Land of Shri Yowa Agap.

**7.** The nature of the dispute as can be gathered from the pleadings of the parties is that the LPC, dated 14.02.2014, issued to the petitioner by the Deputy Commissioner, Papumpare District, Yupia, vide no. DC/LM/LPC-19/08 certifying that the petitioner is in possession of 36747 Sq. mtrs of land at Huto village for residential purpose, overlaps with the land of the respondent no. 5/ APEDA to the extent of land measuring 2712 Sq. mtrs.

**8.** On consideration of the rival pleadings of the parties, it is evident that the dispute raised in the instant writ petition for resolution of this Court is a civil dispute between the petitioner and the respondent no. 5/APEDA, involving a disputed questions of facts, which cannot be gone into and determined by this Court in a writ petition filed under Article 226 of the Constitution of India.

**9.** In that view of the matter, this writ petition shall stand disposed of leaving the parties to approach the appropriate forum for resolution of the dispute between the petitioner and the respondent no. 5/APEDA, if so advised.

Consequently, the Status-quo order, passed earlier, also stands vacated.

**JUDGE**

**Comparing Assistant**