

GAHC040006032021



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

Case No. : WP(C)/203/2021

Bengia Hashi
S/O Late Bengia Taigh,
R/O Vill. Tayeng, P.O/P.S Koloriang, Dist. Kurung Kumey , A.P 791118

VERSUS

The State of AP and Others
Represented by the Commisioner,
Department of the Land, Govt. of A.P Itanagar. 791111 2:The Deputy
Commissioner
Age: 0
Occupation :

3:The CO-Cum-DLRSO
Age: 0
Occupation

Advocate for the Petitioner : B Arun

Advocate for the Respondent : GA (AP)

**BEFORE
HONBLE MR. JUSTICE NANI TAGIA**

ORDER

Date : 21.07.2023

Heard Mr. C. Natung, learned counsel for the petitioner. Also heard Mr. P. J. Koyu, learned counsel appearing on behalf of Mr. D. Kamduk, learned standing counsel for the Land Management Department representing the respondent No. 1 and Ms. G. Ete, learned Senior Government Advocate representing the State respondent Nos. 2 & 3.

2. Mr. Natung, learned counsel for the petitioner has prayed for time to file rejoinder to the counter-affidavit filed by the respondent Nos. 2 & 3.

3. On perusal of the records, it has been found that the counter-affidavit by the respondent Nos. 2 & 3 was filed on 15.12.2022 and the petitioner thereafter had taken time to file rejoinder to the counter-affidavit filed by the respondent Nos. 2 & 3 on at least 2(Two) occasions. Despite that, it is seen that the petitioner has not filed rejoinder to the counter-affidavit filed by the respondent Nos. 2 & 3 till date.

4. This writ petition, filed under Article 226 of the Constitution of India, is directed against the Order, dated 27.05.2021, issued by the Circle Officer-cum-DLRSO, Kurung Kumey District, Koloriang, for Deputy Commissioner, Kurung Kumey, District, Koloriang, vide Memo No. KKD/KLG/LM/TAH/2021-22/606; whereby the petitioner has been directed to stop the construction work within the premises of the Trans Arunachal Highway (for short, 'TAH').

5. The petitioner contends that the area where he is undertaking the

construction work does not fall within the area meant for construction of TAH and the impugned Order, dated 27.05.2021, has been issued by the Circle Officer-cum-DLRSO, Kurung Kumey District, Koloriang, for Deputy Commissioner, Kurung Kumey, District, Koloriang, vide Memo No. KKD/KLG/LM/TAH/2021-22/606; without any proper verification as to whether the area where the petitioner is undertaking the construction work, actually falls within the premises meant for construction of TAH as per the DPR prepared or not.

6. The respondent Nos. 2 & 3 in the counter-affidavit filed in Paragraph-6 has stated as under:-

"6. That with regards to the statement made in **Paragraph-4** of the writ petition, the answering respondent begs to state that as per field verification carried out by this office, it has been ascertained that the petitioner is carrying out his construction activities on plinth area measuring $15 \times 4 = 60$ Sq.mtrs., whereareas Govt. approved allotted area is 42 Sq.mtrs., only in the name of Shri Bengia Semar, S/o Shri Bengia Hashi (Petitioner) excluding the RoW and internal Koloriang Town Road. And also it is pertinent to mentioned here that the land falling within ROW (Right of Way) has already been compensated to the petitioner."

7. On perusal of Paragraph-6 of the counter-affidavit filed by the respondent Nos. 2 & 3, it appears that the petitioner is undertaking construction activities on a plinth area measuring $15 \times 4 = 60$ Sq.mtrs., whereareas Govt. approved allotted area is 42 Sq.mtrs., in the name of Shri Bengia Semar, who is stated to be the son of the petitioner.

8. Since the petitioner is found to be carrying out his construction activities beyond the Govt. approved allotted area in the name of the petitioner's son, no interference is called for to the impugned Order, dated 27.05.2021, issued

by the Circle Officer-cum-DLRSO, Kurung Kumey District, Koloriang, for Deputy Commissioner, Kurung Kumey, District, Koloriang, vide Memo No. KKD/KLG/LM/TAH/2021-22/606.

Accordingly, the writ petition stands dismissed being devoid of merit.

Interim order passed earlier, if any, stands vacated.

JUDGE

Comparing Assistant