

GAHC040007082023



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

Case No. : Review Pet. 7/2023

1: Yeshi Phuntsok alias Phuntso
S/o Lobsang Phuntsok, Permanent Resident of Kharsa Village, Jang Circle, PO
Tawang, PS Jang, District Tawang, Arunachal Pradesh. Ph. No. 8473869788

VERSUS

1: THE STATE OF AP and 6 Ors.
Represented by the Commissioner/Secretary, Land Management, Govt. of Arunachal
Pradesh, Itanagar 791111

2: The Deputy Commissioner
Tawang
District Tawang
PO/PS Tawang
Arunachal Pradesh.

3: The Additional Deputy Commissioner
Jang
PO Tawang
PS Jang
District Tawang
Arunachal Pradesh.

4: The Union of India
Represented by the Secretary
Ministry of Defence
Sena Bhavan
Govt. of India
New Delhi 110011

5:The Chief Engineer (Vartak)
C/o 99 APO
Tezpur
District Sonitpur
Assam.

6:The Commander
42 BRTF
C/o 99 APO
Sapper Camp
Dirang
PO Dirang
District West Kameng
Arunachal Pradesh.

7:The Officer (Commanding)
90 RCC (GREF)
Jang
PO Tawang
PS Jang
District Tawang
Arunachal Pradesh

Advocate for the Petitioner : T T Tara

Advocate for the Respondent : GA (AP)

BEFORE
HONBLE MR. JUSTICE NANI TAGIA

ORDER

Date : 01-06-2023

Heard Mr. B. Picha, learned counsel for the petitioner. Also heard Mr. D. Kamduk, learned Standing counsel for the Land Management Department, representing the respondent no. 1; Ms. R. Basar, learned Junior Government Advocate for the respondent nos. 2 & 3 and Mr. M. Kato, learned DSGI for the respondent nos. 4, 5, 6 & 7.

2. This review petition has been filed seeking review of the order dated

24.05.2023, passed in WP(C) No. 138(AP)/2023, wherein, this Court, on the basis of the submission of Mr. D. Kamduk, learned Standing counsel for the Land Management Department as well as Mr. Picha, learned counsel for the petitioner, had recorded a finding that there was no public notification issued under the provision of land acquisition law for acquisition of the petitioner's land.

3. The review petitioner had filed a writ petition being WP(C)No.138(AP) of 2023, contending that the petitioner is in possession of a plot of land measuring 1404 sqm located at Kharsa village of Jang Circle, Tawang District, Arunachal Pradesh and though assessment for acquiring the land of the petitioner was made by the respondent authorities, the land of the petitioner is yet to be acquired. The petitioner has further contended in the writ petition that while the land of the petitioner remains to be acquired by the respondent authorities, the respondent authorities in the meantime are not allowing the petitioner to utilise his land. Under the aforesaid circumstances, the petitioner had prayed for a direction to the respondent authorities either to acquire the land of the petitioner located at Kharsa village of Jang Circle, Tawang District, Arunachal Pradesh or to direct the respondent authorities to allow the petitioner to utilise his land as per the wish of the petitioner.

4. During the course of hearing of the writ petition, Mr. Kamduk, learned Standing counsel for the Land Management Department had pointed out that no public notification under the land acquisition law has been made by the land acquiring authorities. Under the circumstances, Mr. Kamduk, learned Standing counsel for the Land Management Department had submitted that unless public notification under the appropriate provision of law relating to land acquisition is issued, there cannot be any acquisition of the land of the petitioner by the authorities.

5. The submission made by Mr. D. Kamduk, learned Standing counsel for the

Land Management Department was neither controverted by Mr. Picha, learned counsel for the petitioner nor the petitioner in WP(C) No. 138/2023 had annexed any public notification issued for acquiring the petitioner's land under the land acquisition law. It was under the aforesaid rival contentions advanced by both the counsels for the parties, that no public notification for acquiring the land of the petitioner was issued under the law related to the land acquisition, the writ petition was disposed of without any consequential order.

6. This review petition has now been filed by the petitioner for recalling of the finding recorded in the order dated 24.05.2023, passed in WP(C)No. 138/2023, to the extent that no public notification for acquiring the land of the petitioner was issued by the authorities by contending that it has, subsequently, come to the knowledge of the petitioner that such notification for acquiring the land of the petitioner was issued under Section 10 of *the Balipara/Tirap/Sadiya, Frontier Tract Jhum Land Regulation Act, 1947*, dated 27th September, 2012, by the Secretary, Land Management, Government of Arunachal Pradesh, vide No. LM-84/2012/9406, which notification has been annexed as Annexure-4 to the Review Petition.

7. Mr. D. Kamduk, learned Standing counsel for the Land Management Department has submitted that he did not have the proper instruction when submission was advanced by him in the writ petition that no public notification for acquiring the land of the petitioner was issued by the State authorities. He, thus, submits that the public notification dated 27th September, 2012, issued under Section 10 of *the Balipara/Tirap/Sadiya, Frontier Tract Jhum Land Regulation Act, 1947*, for acquisition of land, annexed by the petitioner in the instant Review Petition, may have been issued.

8. In view of the above, the findings recorded in the order dated 24.05.2023, passed in WP(C)No. 138/2023, to the extent that no public notification for acquiring the land of the petitioner under the appropriate provision of the land

acquisition law has been issued, is hereby recalled.

9. Though the notification dated 27th September, 2012 under Section 10 of *the Balipara/Tirap/Sadiya, Frontier Tract Jhum Land Regulation Act, 1947*, is stated to have been issued by the concerned authority for acquiring the land of the petitioner, since the said notification was not annexed and made a part of the record in WP(C)No. 138/2023 by the petitioners, the WP(C)No. 138/2023 which was disposed of by this Court on 24.05.2023, can however, be not restored to file.

10. Since the finding recorded in the order dated 24.05.2023 passed in WP(C)No. 138/2023, to the extent that no public notification for acquiring the land of the petitioner under the provision of the land acquisition law was issued has been recalled, liberty is granted to the petitioner to file a fresh writ petition, if so advised.

11. Review petition is disposed of, in terms above.

JUDGE

Comparing Assistant