

GAHC040007292023



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

Case No. : WP(C) 261/2023

1:Jarge Bage
S/o Shri Gejar Bage,
R/o Tayek Colony, Dumporijo, PO/PS Dumporijo, Upper Subansiri District,
Arunachal Pradesh.

VERSUS

1:THE STATE OF AP and 2 Ors.
Represented by the Secretary, General Administration, GoAP, Civil Secretariat,
Itanagar, Arunachal Pradesh.

2:the Deputy Commissioner
Daporijo
Upper Subansiri District
Arunachal Pradesh.

3:the Additional Deputy Commissioner cum Estate Officer
Dumporijo
Upper Subansiri District
Arunachal Pradesh

Advocate for the Petitioner : Adam Tatak

Advocate for the Respondent : GA (AP)

**BEFORE
HONBLE MR. JUSTICE ROBIN PHUKAN**

ORDER

06.06.2023

Heard Mr. A. Tatak, learned counsel for the petitioner. Also heard Ms. R. Basar, learned Junior Government Advocate for the State respondent nos. 1 & 2.

2. In this writ petition, under Article 226 of the Constitution of India, the petitioner Shri Jorge Bage has put to challenge the eviction notice no. DMJ/ADC/EO-01/2023, dated 31.05.2023, issued to him by the Additional Deputy Commissioner-cum-Estate Officer, Dumporijo, Upper Subansiri District, Arunachal Pradesh.

3. The background facts leading to filing of the present petition is adumbrated herein below:-

The son of the petitioner namely, Shri Peter Bage was allotted a plot of land measuring 60.00 Sqm at Dumporijo, near PWD Office, vide Memo No. LM/DMJ-23/2016-17/, dated 25th November, 2019. Thereafter, on 31st May, 2023, the petitioner has received an eviction notice from the Additional Deputy Commissioner-cum-Estate Officer, Dumporijo, on the ground that the petitioner had erected a boundary wall within public premises, belonging to Public Works Department (PWD), Dumporijo Division. Immediately, thereafter, the petitioner has filed a reply to the eviction notice to the Additional Deputy Commissioner-cum-Estate Officer, Dumporijo, on 31.05.2023 and the same has not yet been disposed of. Therefore, the petitioner has preferred an appeal before the learned Deputy Commissioner,

Daporijo, Upper Subansiri District, under Section 12 of *the Arunachal Pradesh Public Premises (Eviction of Unauthorized Occupants) Act, 2003*, assailing the eviction notice no. DMJ/ADC/EO-01/2023, dated 31.05.2023, issued by the Additional Deputy Commissioner-cum-Estate Officer, Dumporijo, Upper Subansiri District, Arunachal Pradesh, however, the same is yet to be disposed of by the Deputy Commissioner, Daporijo, Upper Subansiri District. Being aggrieved, the petitioner approached this court.

4. The learned counsel for the petitioner Mr. A. Tatak submits that this writ petition may be disposed of at the motion stage itself by directing the Additional Deputy Commissioner-cum-Estate Officer, Dumporijo to dispose of his representation dated 31.05.2023 and also directing the Deputy Commissioner, Daporijo, Upper Subansiri District, to dispose of the appeal of the petitioner. Mr. Tatak further submits that till disposal of the aforesaid representation and the appeal, the impugned eviction notice no. DMJ/ADC/EO-01/2023, dated 31.05.2023, issued by the Additional Deputy Commissioner-cum-Estate Officer, Dumporijo, Upper Subansiri District, Arunachal Pradesh may be stayed.

5. On the other hand, Ms. Basar, learned Jr. Government Advocate submits that the petitioner may directly approach the Deputy Commissioner to readdress his grievance.

6. After hearing the learned counsels appearing for the parties and having gone through the Provisional Land Allotment Certificate, issued to the son of the petitioner (annexed as Annexure-1 to the writ petition) and the impugned eviction notice (annexed as Annexure-2 to the writ petition) and the reply to the eviction notice, dated 31.05.2023 (annexed as Annexure-3

to the writ petition) and the appeal petition pending before the Deputy Commissioner, Daporijo, Upper Subansiri District (annexed as Annexure-4 to the writ petition), I find that vide Annexure-1, the land was allotted to the son of the petitioner, namely, Shri Piter Bage. But, the eviction notice was issued to the petitioner on 31.05.2023, and it also appears that against the impugned eviction notice, the petitioner has submitted one representation on 31.05.2023, before the Additional Deputy Commissioner-cum-Estate Officer, Dumporijo, Upper Subansiri District stating that the boundary wall was constructed in the land allotted to the son of the petitioner. Thereafter, the petitioner has preferred an appeal before the Deputy Commissioner, Daporijo, Upper Subansiri District under Section 12 of *the Arunachal Pradesh Public Premises (Eviction of Unauthorized Occupants) Act, 2003*, assailing the eviction notice no. DMJ/ADC/EO-01/2023, dated 31.05.2023, issued by the Additional Deputy Commissioner-cum-Estate Officer, Dumporijo, Upper Subansiri District, Arunachal Pradesh and aforesaid representation and the appeal have not yet been disposed of by the Additional Deputy Commissioner-cum-Estate Officer, Dumporijo, Upper Subansiri District and the Deputy Commissioner, Daporijo, Upper Subansiri District.

7. In view of the above and also having regards to the submissions of the learned counsels of both sides and also in view of the fact that available remedy is yet to be exhausted by the petitioner, this writ petition is accordingly, disposed of at the motion stage itself by directing the Additional Deputy Commissioner-cum-Estate Officer, Dumporijo, Upper Subansiri District, Arunachal Pradesh do dispose of the representation submitted by the petitioner on 31.05.2023, and the Deputy Commissioner, Daporijo, Upper Subansiri District to dispose of the appeal preferred by the petitioner under

Section 12 of *the Arunachal Pradesh Public Premises (Eviction of Unauthorized Occupants) Act, 2003*, assailing the eviction notice no. DMJ/ADC/EO-01/2023, dated 31.05.2023, issued by the Additional Deputy Commissioner-cum-Estate Officer, Dumporijo, Upper Subansiri District, Arunachal Pradesh by a reasoned order, within a period of 2 weeks from the date of receipt of this order. And till the disposal of the aforesaid representation, the impugned eviction notice no. DMJ/ADC/EO-01/2023, dated 31.05.2023, issued by the Additional Deputy Commissioner-cum-Estate Officer, Dumporijo, Upper Subansiri District, Arunachal Pradesh, shall remain stayed.

8. The parties have to bear their own cost.

JUDGE

Comparing Assistant