

GAHC030000392021



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

Case No. : WP(C)/11/2021

Ziona
Dinthar, Aizawl, Mizoram

VERSUS

State of Mizoram and 4 Ors
Aizawl, Mizoram

2:Deputy Commissioner
Aizawl District
Aizawl
Mizoram

3:The Engineer in Chief
Power and Electricity Dept
Govt of Mizoram
Aizawl
Mizoram

4:The Superintending Engineer
Power and Electricity Dept. Aizawl Power Circle
Aizawl
Mizoram

5:The Secretary
Land Revenue and Settlement Dept. Govt. of Mizoram
Aizawl
Mizora

Advocate for the Petitioner : Ms. Rosalynn L Hmar

Advocate for the Respondent : Ms. Mary Lalruatkimi Khiangte (GA, Mizoram)

B E F O R E

**HON'BLE MR.JUSTICE MICHAEL ZOTHANKHUMA
ORDER**

18.01.2023

Heard Ms. Rosalyn L. Hmar, learned counsel for the State respondents.

2. The petitioner's case is that the respondent Nos. 3 & 4 have constructed a drain on the petitioner's land covered by LSC No. 1351/1989. The further case of the petitioner is that during construction of the drain, the land of the petitioner had been damaged including causing damage to several fruit trees, trees and crops.

3. The petitioner's counsel thus prays for payment of damages for unauthorised construction of the drain over the land of the petitioner and for payment of compensation for the damage caused to the fruit trees, trees and crops of the petitioner.

4. Ms. Mary L. Khiangte, learned Government Advocate submits that the construction of the drain was made on an existing gorge and as such, no damage was caused to the petitioner's land. In fact, the respondent Nos. 3 & 4 had made improvement of the natural gorge. She also submits that the question regarding damage to the number of fruit trees, trees and crops, can only be decided by a Civil Court. She also submits that as per the Letter dated 27.06.2018 issued by the Junior Engineer, Luangmual Sub-Station Sub-Divisional, Aizawl addressed to the Sub-Divisional Officer, Luangmual Sub-Station Sub-Division, the improvement on the gorge by the respondent Nos. 3 & 4 is on land owned by the Central Young Mizo Association (CYMA) and is not on the petitioner's land.

5. Considering the submissions made by the learned counsels for the parties, it is

clear that there are disputed questions of fact, which cannot be decided in a writ Court. Further, the prayer of the petitioner pertains to damages, for which evidence would have to be adduced. In light of the above reasons, this Court is of the view that the petitioner would have to approach the Civil Court with his grievance.

6. Accordingly, this writ petition is dismissed, with liberty being given to the petitioner to approach the Civil Court with his grievance. It is needless to add that if the petitioner approaches the Civil Court with his grievance and there is a requirement of making a spot verification of the land in question by the Revenue authorities, in the presence of the petitioner along with the P & E Department, Govt. of Mizoram, the said requirement would have to be considered by the Civil Court.

7. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant