

GAHC030000852023



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

Case No. : WP(C)/17/2023

Zuithanga and 12 Ors.
(now dead), S/o Vara (L), West Phaileng, Mamit Disrict, Mizoram R/b his son
Rosanga (66 yrs) 2: Chuaunkunga (now dead)

3: Rochhungi

4: Darrikhuma

5: Tlangkhuma (now dead)

6: Lalnghenga (now dead)

7: C.Vanlalsiama (now dead)

8: Hranglawmi (now dead)

9: Thiamsanga

10: Kapthangpuia

11: Laldingliana Inow dead)

12: C.Thankhum

VERSUS

Union of India and 8 Ors.

R/b the Secretary to the Govt. of India, Ministry of Home Affairs, New Delhi

2:The Director

3:The Joint Secretary

4:The Secretary to the Govt. of India

5:The Defence Estate Officer

6:The State of Mizoram

7:The Secretary to the Govt. of Mizoram

8:The Director

9:The Director

10:Deputy Commissione

Advocate for the Petitioner : Mr Zoramchhana

Advocate for the Respondent : Ms Zairemsangpuii for R1-R5

B E F O R E
HON'BLE MR. JUSTICE NELSON SAILO
ORDER

15.11.2023

Heard Mr. Zoramchhana, learned counsel for the petitioners, Ms. Zairemsangpuii, learned CGC appearing for the respondent Union of India and Mrs.

Mary L. Khiangte, learned Govt. Advocate appearing for the State respondents. Having regard to the nature of controversy involved, writ petition is taken up for disposal at the admission stage.

[2.] By filing this writ petition, the petitioners sought for a direction to the respondent authorities to pay them rental compensation as per the assessment made by the District Collector concerned and communicated to the Director (N.E), Govt. of India, Ministry of Home Affairs, (N.E. Division-NEDC), New Delhi on 07.08.2015 (Annexure-6). The petitioners have also prayed for payment of interest @ 9% per annum with effect from 22.04.2010.

[3.] Brief facts of the case as projected by the petitioners is that their respective lands have been occupied by the Security Forces due to the outbreak of insurgency in the State of Mizoram in the year 1966. Occupation of their lands continued for a number of years up to 1986 in some cases and up to 1994 in other cases. According to the petitioners, they are in possession of their respective Village Council Passes and they were prevented from utilizing their lands due to forceful occupation of their lands by the Security Forces. Aggrieved for not being paid rental compensation, they approached this Court by filing WP(C) No. 33/2014. The writ petition was considered and disposed of vide Judgment & Order dated 17.07.2015 by constituting a verification team to conduct spot verification of the land of the petitioners. By the said direction, the respective land holdings of the petitioners was required to be verified by the spot verification team and the entire process was directed to be completed within a period

of six (6) months from the date of receipt of a copy of the Court's order. Thereafter, within three (3) months, the claim for compensation was to be made and that the Deputy Commissioner of the concerned district was made the Coordinating Authority.

[4.] In terms of the above direction, the constituted verification team conducted verification on 15.10.2014 and after making the verification for each of the land of the petitioners, the details of the land and the period of occupation was separately entered in the verification report. The District Collector thereafter prepared the assessment for rental compensation for each of the petitioners which came to a total amount of Rs. 48,28,518/-. The same was forwarded to the Director (N.E), Govt. of India, Ministry of Home Affairs, (N.E. Division-NEDC), New Delhi on 07.08.2015 by the Under Secretary to the Govt. of Mizoram, Revenue Department but despite the same, the respondent authorities having not paid the rental compensation, the petitioners are again before this Court.

[5.] Mr. Zoramchhana, learned counsel for the petitioners submits that as per the findings of the joint spot verification team, the petitioners were found to be in possession of their respective Village Council Passes. However, due to the forceful occupation of their lands in view of the insurgency prevailing in the State, the petitioners were not in a position to obtain documents showing the occupancy of their lands by the Security Forces. However, the joint spot verification team found that there were some old trenches dug by the Security Forces still available at several locations to prove their occupation over the land of the petitioners. Therefore, the

assessment made by the District Collector for rental compensation pursuant to the joint exercise conducted by the stakeholders should be paid to the petitioners without further delay. He submits that in a case of similar nature i.e., WP(C) No. 140/2013, the constituted joint verification team have also come up with a similar findings and since they had refused to pay the compensation to the land owners, the land owners as petitioners approached this Court by filing Contempt Petition No. 11/2015. The Contempt Petition was however closed by this Court vide Order dated 08.05.2017 with an observation that there was no violation of the direction of the Court's direction and that the only dispute was with regard to the facts i.e., veracity of the verification report and method of rental assessment made, which can only be adjudicated in a Civil Court. Aggrieved with the same, the petitioners therein approached the Apex Court through Civil Appeal No. 1990 of 2022. The Apex Court vide Order dated 14.03.2022 after considering the matter was of the view that the entitlement of the land owners could not questioned since the matter was gone into at the verification level where after, the Deputy Commissioner also assessed the compensation to be made over the land owners. The amount of compensation assessed which was indicated in the additional affidavit filed by the respondent authorities concerned at the initial stage of the Civil Appeal, which was precisely the amount computed by the Deputy Commissioner was therefore directed to be paid to the land owners within a time frame of six (6) months from the date of the Order, failing which interest @ 8% would be payable to the land owners. The learned counsel therefore submits the

present case is also similar in all respects and that the direction passed by this Court in the earlier round of litigation was not challenged, the spot verification made was not challenged and therefore, it is not open for the respondents to question the assessment made by the Deputy Commissioner at this stage. Therefore, the respondents should be directed to pay the petitioners the amount assessed by the Deputy Commissioner within a time frame along with suitable interest.

[6.] Ms. Zairemsangpuii, learned CGC on the other hand submits that the case of the petitioners in the present case is not similar to the case of the petitioners in WP(C) No. 140/2013. She submits that in WP(C) No. 140/2013, the verification team had confirmed that the lands claimed for rental compensation were actually in existence and the Land Pass against the land concerned were genuine land passes issued by the State Government in the Department concerned. The same is not the case in the present case as can be seen from the verification report submitted by the joint verification team. She submits that the findings was to the effect that the Village Councils and the petitioners did not maintain documents nor issued written statement by the authority for which their lands were occupied by the Security Forces. There was no proper registration of individual land holdings particularly in the remote area during the erstwhile Mizo District Council. Therefore, most of the petitioners did not possess Revenue Pass issue by the State Government. She therefore submits that no comparison can be drawn by the present petitioners with the case of the petitioners in WP(C) No. 140/2013. Therefore, as the matter involves disputed question of facts, no

direction can be passed in a writ proceeding for payment of rental compensation to the petitioners as claimed by them. She thus submits that the writ petition should be dismissed.

[7.] Mrs. Mary L. Khiangte, learned Govt. Advocate submits that the State respondents have not filed their affidavit-in-opposition in the matter and that in the given facts and circumstances of the case, Court may consider and pass appropriate Order as it deems fit and proper.

[8.] I have heard the submissions made by the learned counsels for the rival parties and I have perused the materials available on record. As may be noticed, it is the second time the petitioners are before this Court. The first writ petition was disposed with a direction to have a joint verification on the claim made by the petitioners for payment of rental compensation by constituting the verification team. As directed, the verification team conducted spot verification on 15.10.2014 and the report is annexed as 'Annexure-4' to the writ petition. A perusal of the report would go to show that the joint verification team verified and checked the documents of the petitioners in the presence of a members of the Village Council and senior citizens of the area. The verification team noticed that there was no proper registration of individual land holdings particularly in the remote area during the erstwhile Mizo District Council. The only documents to support the claim made by them was the Village Council Pass issued by the Village Council concerned. A copy each of the documents produced were also accounted by the verification team by attaching the same to the report. The joint

verification team also did not find any documents being maintained showing the occupation of the land by the Security Forces but however, the statements of senior citizens and members of Village Council were the only source available to prove the correctness of the claim made by the petitioners. Apart from this, the joint verification team found some old trenches dug by the Security Forces which was still available at various locations in order to prove the occupation of the land by them. Recording such findings, the joint verification team entered the details of the land with remarks for each of the land owners in the verification form prepared by them. Based on such entries, the Deputy Commissioner, Mamit District, Mamit made an assessment of the rental charges payable to each of the land owners which was then forwarded to the Director (N.E), Govt. of India, Ministry of Home Affairs, (N.E. Division-NEDC), New Delhi on 07.08.2015 as already stated earlier.

[9.] It can further be noticed that in terms of the direction of this Court, the joint verification team along with the petitioners, Village Council concerned and the senior citizens of the area concerned met on 15.10.2014 whereafter, the details of the claim and particulars of the land were entered in the verification form. Although no such documents was found as regards to the occupation of the land by the Security Forces for the relevant time shown in the verification form, but the fact remains that the occupation according to the petitioners was a forceful occupation due to outbreak of insurgency in Mizoram. In the situation prevailing at the relevant time, i.e., during the disturbances, one can hardly expect a certificate of land occupation to be issued by

the Security Forces or by the District Council Administration as it was then. The joint verification team had also undertaken the exercise of hearing the senior citizens and the Village Councils during the joint spot verification and therefore, in the absence of any dispute from any quarter about the occupancy of the land by the Security Forces, the joint verification report will have to be relied upon in the considered view of this Court. As already noticed in a case of similar nature where land owners had claim rental compensation, a similar direction for having joint verification was made and the report of the joint verification goes to show that the team was of the view that it was not possible to prove or disprove actual occupation of the land by the Security Forces from records but the fact that lands were occupied by Security Forces could be made out from the testimony of the local leaders. The verification team also confirmed that the lands claimed for rental charges were actually in existence and land passes were found to have been issued by the State Government. In the present case as well, there is no dispute to the fact that the lands for which rental compensation is being claimed are available. In fact, the actual area of land occupied has clearly been indicated in the verification form and that there is no dispute from the Village Council authorities as well regarding issuance of Village Council Passes. Such being the position, this Court finds that there is indeed similarity between the present case and the case of the petitioners in WP(C) No. 140/2013.

[10.] Due to non-payment of rental charges a contempt was filed which however was closed as already indicated above. The matter went to the Hon'ble Supreme Court

and the Hon'ble Supreme Court after having regard to the fact that the matter was already gone into at the verification level and it was the Deputy Commissioner who had made the assessment, the land owners could not be deprived of rental compensation as was assessed. As such, a direction was made to pay the rental compensation within a time frame and also with a default clause.

[11.] Thus, upon due consideration of the case projected by the parties, this Court is of the view that the petitioners are entitled to the relief claimed by them. Accordingly, the writ petition is disposed of with a direction to the respondent concerned, particularly the respondent Nos. 1 to 5 to ensure depositing of the assessed amount before the Deputy Commissioner, Mamit District, Mamit within a period of two (2) months from the date of receipt of a certified copy of this Order, failing which, the respondents will be liable to pay interest @ 6% per annum from the date of this Order till final realization.

[12.] With the above observation and direction, the Writ Petition stand disposed of. No Cost.

JUDGE

Comparing Assistant