

GAHC030004282021



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

Case No. : WP(C)/115/2021

Lalhmachhuana
Salem, Mualpui, Aizawl, Mizoram

VERSUS

State of Mizoram and 2 Ors.
r/b Chief Secretary to the Govt. of Mizoram, Aizawl 2:Secretary to the Govt. of
Mizoram

3:Directo

Advocate for the Petitioner : Mr Samuel Vanlalhriata Chhangte

Advocate for the Respondent : Mrs. Linda L Fambawl (Addl.AG/GA, Mizoram)

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

27.04.2023

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Heard Mr. Samuel Vanlalhriata Chhangte, learned counsel for the petitioner as well as Mrs. Linda L. Fambawl, learned counsel for the State respondents.

2. The petitioner's case is that the petitioner is the owner of land covered by LSC No. 104704/01/867 of 2007 with an area of 0.10 bigha at Mualpui, Aizawl. The

respondent authorities through the appointed Surveyor, conducted spot verification upon the petitioner's land on 10.07.2017. As per the verification report, it was stated that the petitioner's LSC was apportioned/carved out of LSC No. 01/766 of 2006. However, documents showing the manner in which the petitioner's LSC had been carved out of LSC No. 01/766 of 2006 and other connected documents were not traceable in the records, though the land of the petitioner was already included within the Cadastral Survey, House Site plan. The Verification Report dated 10.07.2017 thereafter made a request to the higher authorities for transferring the location of the petitioner's LSC elsewhere.

3. Pursuant to the said report, the State Government in the Revenue Department gave its approval for allotment of alternative site to the petitioner at Mualpui House Site plan. The same was communicated by the Under Secretary to the Government of Mizoram, Land Revenue & Settlement Department vide letter dated 07.09.2017 (Annexure-IV). However, as no follow-up action was taken by the respondents, the petitioner submitted several representations, the last one on 07.04.2021, by even indicating that there were two empty plots of land available. However, as the respondent authorities failed to take any steps for allotting him an alternative site, he has filed the present writ petition.

4. The State respondents thereafter filed an affidavit-in-opposition on 06.05.2022 stating that the Land Revenue & Settlement Department was not in a position to dispose of all applications received by them due to the Covid-19 pandemic and lack of sufficient manpower. It also stated that the allotment of an alternative site under the Mualpui Cadastral House Site plan to the petitioner, for location transfer of his LSC, was to be carried out in the near future.

5. The State respondents thereafter submitted an additional affidavit on 28.02.2023, wherein it was stated that the land applied for the petitioner for location transfer of his LSC was not a vacant land.

6. Thereafter, the State respondents filed another additional affidavit dated 19.04.2023, which is to the effect that the land which was adjacent to the land applied for by the petitioner, i.e. Plot No. 0777 was verified. The Verification/ Duty Report dated 23.02.2023 made by the Surveyor of the Department of Land Revenue & Settlement, is to the effect that no land owner could be identified and no one had come forward claiming the land, i.e. Plot No. 0777. Further, Plot No. 0777 was outside the Plan Area, where no plot number was allotted. The position of the land passes could not be ascertained. Further, the plot had not been developed nor utilized for more than a decade.

7. The operative portion of the Duty Report dated 23.02.2023 is reproduced as follows:-

“This Plot No. 0777 also seems to have been recorded in the same manner. Therefore, looking at Mualpui H/S Plan 77 and Revised Plan 1989 Maps, this plot lies outside the Plan Area where no Plot No. was allotted. This is one of the plots of land under Mualpui CAD Survey where landowners could not be identified or where no landowners came forward and reported themselves and the position of the land passes could not be ascertained. An estimate of the CAD Survey 2008 also shows that these plots of land have not been developed nor utilized for more than a decade.”

8. The learned counsel for the petitioner submits that the petitioner is ready to accept Plot No. 0777, if the said land is vacant land.

9. Mrs. Linda L. Fambawl, learned Government Advocate submits that the Duty Report dated 23.02.2023, submitted by the Surveyor of Land Revenue & Settlement Department having come to a finding that Plot No. 0777 is vacant, the said plot can be settled in the name of the petitioner, by way of location transfer of the petitioner's LSC No. 104704/01/867 of 2007.

10. In view of the consent of the counsels for the parties and as the Duty Report dated 23.02.2023 having implied that Plot No. 0777 is vacant land, the State respondents are directed to settle Plot No. 0777 by way of a Land Settlement Certificate in the name of the petitioner within a period of one month from the date of receipt of a copy of this order. This would naturally be subject to the said land not having been allotted to any person on the basis of any valid land document.

The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant