

GAHC030004562022



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

Case No. : WP(C)/109/2022

B. Kapchunga
R/o Lawngtlai Chanmari, Mizoram
r/b L/R JB Rualchhinga
R/o TUikhuahtlang, Aizawl.

VERSUS

Union of India and 3 Ors.
New Delhi

Advocate for the Petitioner : Mr F Lalenglina

Advocate for the Respondent : Mrs. H Lalmalsawmi, (Addl.AG/GA Mizoram) for R3-R4

B E F O R E
HON'BLE MR. JUSTICE MICHAEL ZOTHANKHUMA
ORDER

09.11.2023

Heard Mr. F. Lalenglina, learned counsel for the petitioner. Also heard Ms. Zairemsangpuii, learned CGC for the respondent Nos. 1 & 2 and Mrs. H. Lalmalsawmi, learned Government Advocate for the respondent Nos. 3 & 4.

2. This writ petition has been filed praying for payment of rental compensation for unauthorized occupation of land covered by LSC No. 68/87 of 11.06.1987.

3. The petitioner's case is that though the petitioner has approached the respondent authorities for payment of rental compensation on several occasions, no payment has been made till date.

4. The petitioner's counsel submits that the petitioner's land having an area of 65,675 sq. mts indicated in the Land Settlement Certificate was occupied by the Central Water Commission in the year 1997 and despite requests being made vide representations in the year 2019 for payment of rental compensation, no rental compensation had been paid by the Central Water Commission. He submits that though the Central Water Commission have left the land of the petitioner, prior to filing of the present writ petition in the year 2022, the hutment and other materials of the Central Water Commission are still lying on his land.

5. On the other hand, the learned CGC has stated that the present writ petition should be dismissed for misrepresenting facts before the Court. She submits that the Land Settlement Certificate had not been issued to the petitioner in the year 1987 and infact, had been issued only in the year 2015, as can be seen from the Land Settlement Certificate itself. She also submits that the respondent Nos. 1 & 2 have been allowed to occupy 28 sq. mts. of the land by the VCP Sihtlangpui and the respondent Nos. 1 & 2 constructed a hutment for office and residence in 1997. They were involved in the work of survey and investigation regarding preparation of Detail Project Report for Hydro Electric Projects and Irrigation. The learned CGC also submits that the petitioner has lease out his land to a Road Construction Company PMPL-SRC Infra JV vide Land Deed Agreement dated 10.10.2020 and as such, cannot claim any rental compensation as the respondent Nos. 1 & 2 are not occupying the petitioner's

land. She also submits that there are discrepancies in the land area as per the pleadings vis-a-vis the land document. She accordingly submits that the LSC appears to be fabricated.

6. Mrs. H. Lalmalsawmi, learned Government Advocate submits that the State Government will not be filing any affidavit. She however submits that the veracity of the Land Settlement Certificate would have to be proved by the issuing authority, i.e., the Lai Autonomous District Council. However, the Lai Autonomous District Council has not been made a party in the present case.

7. I have heard the learned counsels for the parties.

8. On perusing the Land Settlement Certificate which has been annexed to the writ petition, the same clearly shows that it has been issued on 22.04.2015 and the spot verification of the Land Settlement Certificate had been done on 18.03.2015. The memo of the Land Settlement Certificate shows that the same was issued only on 18.03.2015. In that view of the matter, it is not understood as to how the petitioner can make a claim for rental compensation prior to the period of the land being settled in favour of the petitioner, i.e., 22.04.2015. The Land Settlement Certificate also shows that the area allotted in terms of the Land Settlement Certificate is 65,675. There is nothing to show as to whether 65,675 pertains to sq. mtr. or sq. ft. On the other hand, it is the case of the petitioner in his pleadings that his land area is 1313500 sq. metres. In any event, the respondent Nos. 1 & 2 have apparently left the land which they occupied, i.e., an area of approximately 28 sq. mtrs. The present writ petition also appears to be hit by the law of limitation. There appears to be disputed questions of fact, which can only be decided by a Civil Court and the same

would also be subject to whether the suit could overcome the issues raised in the affidavit-in-opposition filed by the respondent Nos. 1 & 2, by recording evidence.

9. The case of the petitioner shows that though the cause of action may have arisen in favour of the petitioner in the year 1997, the petitioner has approached this Court only after 25 years, after enormous delay and laches.

10. On considering that there are disputed questions of fact, this Court is not inclined to entertain this present writ petition, as an alternative remedy is available to the petitioner.

11. Consequently, the writ petition is dismissed, with liberty being given to the petitioner to approach the Civil Court with his grievance, as permitted in law.

JUDGE

Comparing Assistant