

GAHC030005152023



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

Case No. : WP(C)/119/2023

Lalchhanchhuahi
D/o Lalengmawia
Muanna Veng
Aizawl, Mizoram

VERSUS

The State of Mizoram and 3 Ors.
R/b Chief Secretary to the Govt. of Mizoram
Aizawl, Mizoram 2:The Secretary
Land Revenue and Settlement Department
Govt. of Mizoram
Aizawl

3:The Director
Land Revenue and Settlement Department
Govt. of Mizoram
Aizawl

4:Chief Engineer
Project Pushpak
Thuampui
Aizawl
Mizora

Advocate for the Petitioner : Mr Lalchhanliana Khiangte

Advocate for the Respondent : Addl. AG/GA, Mizoram

BEFORE
HON'BLE MR. JUSTICE MICHAEL ZOTHANKHUMA
ORDER

03.10.2023

Heard Mr. Lalchhanliana Khiangte, learned counsel for the petitioner who submits that the petitioner is the owner of land measuring 271.44 square metres located at Thuampui, Aizawl under LSC No. 103102/01/1817/2006.

2. The petitioner's further case is that while she was developing her land for growing vegetables, the petitioner received a Stay Order dated 08.09.2022, issued by the Deputy Director (Admn), Directorate of Land Revenue & Settlement, Aizawl informing her to cease the ongoing construction being done by her until further orders.

3. Being aggrieved with the Stay Order dated 08.09.2022, the petitioner submitted two representations dated 14.07.2021 and 27.07.2022 to the Director, Land Revenue & Settlement Department, which had not been disposed of till date.

4. The petitioner's prayer is that the respondents should be directed to consider the petitioner's representations and revoke the Stay Order dated 08.09.2022.

5. The petitioner's counsel submits that as the petitioner's LSC is much older than the Land Lease No. 25/2019 allotted to the BRTF, the petitioner cannot be restrained from enjoying her land which overlaps the land covered by the Land Lease

of the BRTF. In this regard, he has relied upon the Judgment of this Court in the case of *Zampuii Vs. State of Mizoram*, reported in 2017 (4) GLT 749.

6. Mrs. H. Lalmalsawmi, learned Government Advocate, appearing for the respondent Nos. 1, 2 and 3 submits that she does not have any objection to the respondents examining the petitioner's representations and taking a decision on the same. She however submits that unless it is proved that there is overlapping of land between the petitioner's land and the land of the BRTF, the case of *Zampuii (Supra)* would not be applicable to the facts of this case.

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

8. The nature of grievance enumerated in the present writ petition pertains to disputed questions of facts, which cannot be decided by this Court and the appropriate forum would be the Civil Court. However, as the prayer of the petitioner is only with regard to disposal of the representations dated 14.07.2021 and 27.07.2022, this Court is of the view that the above representations should be examined and disposed of by the respondents.

9. The above being said, it is clear that unless there is overlapping of land in respect of the land covered by the petitioner's LSC and the Land Lease No. 25/2019 allotted to the BRTF, the Judgment of this Court in *Zampuii Vs. State of Mizoram(Supra)* would not be applicable to the facts of this case. The impugned Stay Order dated 08.09.2022 implies that the petitioner is taking up construction work on BRTF land. As such, this Court is not inclined to stay the Stay Order dated 08.09.2022.

10. The present case being relatable only to disputed questions of fact, the Director, Land Revenue & Settlement Department, Government of Mizoram shall examine the petitioner's representations dated 14.07.2021 and 27.07.2022 and take a decision on the same, within a period of one month from the date of receipt of a copy of this order. The decision taken thereafter shall be communicated to the petitioner.

11. In the event that the petitioner is still aggrieved with decision taken by the Director, Land Revenue & Settlement Departments, he is at liberty to approach the Civil Court with his grievance.

12. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant