

IN THE HIGH COURT OF MANIPUR
AT IMPHAL
CRP(CRP Art. 227) No. 24 of 2012

Shri Heikrujam Kala Singh, aged about 77 years, son of late H. Sanarik Singh, resident of Chingdong Leikai, P.O. and P.S. Jiribam, Imphal East District, Manipur.

... Petitioner

-Versus-

1. Shri Arambam Gouramani Singh, son of late A. Netra Singh, by occupation a Government employee serving as Lineman under the Government of Manipur in the Electricity Department, Manipur resident of Dibong Khunou, P.O. & P.S. Jiribam, Imphal East District, Manipur, now dead by his L.Rs:-
 - (i) Smt. Arambam Ongbi Panchabati Devi, aged about 58 years, wife of late Arambam Gouramani Singh.
 - (ii) Arambam Sunita Devi, aged about 35 years, daughter of late Arambam Gouramani Singh.
 - (iii) Arambam Sataljit Singh, aged about 20 years, son of late Arambam Gouramani Singh.

... All resident of Dibong Khunou, P.O. & P.S. Jiribam, Imphal East District, Manipur.
2. The State of Manipur, represented by Secretary (Revenue).
3. The Deputy Commissioner, Imphal East, Government of Manipur.

... Respondents

B E F O R E
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

For the Petitioner	::	Mr. Th. Henba, Advocate
For the respondents	::	Mr. T. Rajendra, Sr. Advocate, Md. Shakir Khan, Advocate; & Mr. Niranjana Sanasam, GA;
Date of Hearing	::	18-12-2023
Date of Judgment	::	16-01-2024

J U D G M E N T

[1] The present petition had been filed assailing the judgment and order dated 23-07-2012 passed by the Revenue Tribunal, Manipur, in Revenue Appeal Case No. 1 of 1992. By the impugned judgment and order dated 23-07-2012, the Revenue Tribunal dismissed the appeal filed by the present petitioner against the order dated 14-08-1991 issued by the Deputy Commissioner, Imphal allotting two plots of land measuring an area of .61 acre and .37 acre in favour of the respondent No. 1 for agricultural and residential purposes.

[2] The case of the petitioner is that he is a poor and landless cultivator whereas the respondent No. 1 is a Government employee serving as a Lineman in the Electricity Department, Manipur as well as the owner of a homestead land under Patta No. 3/96 at Dibong Khunou, Jiribam, Manipur. According to the petitioner, on 02-04-1979, he purchased from the respondent No. 1, two plots of land covered by C.S. Dag Nos. 163 and 164 of Village No. 14, Jiribam, measuring an area of .61 acre and .37 acre respectively by executing a kachcha sale deed for a consideration amount of Rs. 300/- only with possession thereof and since then, the petitioner along with his family members have been residing therein by constructing dwelling houses.

[3] In the month of June, 1986, the petitioner filed an application to the Deputy Commissioner, Imphal for allotment of the said two plots of land to him for the purpose of residing and also for cultivation. While the application for allotment submitted by the petitioner was pending consideration, the petitioner learnt from reliable information that the

[3]

respondent No. 1 also filed an application for allotment of the said two plots of land in his favour and that the Deputy Commissioner had already sent his recommendation to the Government for allotment of the said two plots of land in favour of the respondent No. 1 without considering the application submitted by the petitioner. The petitioner, therefore, submitted a representation dated 29-06-1987 to the Deputy Commissioner, Imphal, to recall the said recommendation sent to the Government and to consider the matter of allotment together with the case of the petitioner.

[4] It is also the case of the petitioner that after the cases filed by him before the SDC, Jiribam and the SDO, Jiribam for allowing mutation of his name in the Dag Chitha in respect of the said two plots of land were dismissed, he filed an application dated 19-11-1986 to the Deputy Commissioner, which was registered as Revenue Misc. Case No. 30 of 1986, requesting for correction of the land records in respect of the said two plots of land by recording his name in the relevant Dag Chitha book after cancelling the name of the respondent No. 1. In the said Revenue Misc. Case, the Deputy Commissioner passed an order dated 05-06-1989 directing the SDC, Jiribam to verify personally as to whether the petitioner or the respondent No. 1 was in possession of the disputed lands and for how long and that the names of the persons in possession of the disputed lands shall be recorded in the Dag Chitha. The Deputy Commissioner also observed that if the respondent No. 1 was found occupying the lands in question, the case shall be disposed of in his favour, however, if in the event the petitioner was found occupying the lands, the Government should be moved for allotment of the lands in his favour.

[5] The petitioner's case is that pursuant to the aforesaid order of the Deputy Commissioner, Imphal, the SDC carried out verification on the spot on 06-12-1990 in the presence of the petitioner, the respondent No. 1 and some local villagers and submitted a report dated 11-04-1991 to the Deputy Commissioner, Imphal, stating that the petitioner has been in physical possession of the aforesaid two plots of land since 1979 by constructing dwelling houses, shops, etc. and to take into consideration the report while issuing allotment order in respect of the said lands. However, quite surprisingly, the petitioner received an order/ notice dated 11-02-1992 from the SDC, Jiribam, stating, inter alia, that the said two plots of land have been allotted to the respondent No. 1 and that the petitioner encroached upon the said lands by constructing houses and directing him to remove the construction voluntarily within ten days from the date of receipt of the said notice failing which, the petitioner would be evicted by force. On receiving the said notice, the petitioner went to the office of the Deputy Commissioner, Imphal and verified that the said plots of land have been allotted to the respondent No. 1 by an allotment order dated 24-08-1991.

[6] Feeling aggrieved, the petitioner approached the Revenue Tribunal, Manipur by filing a Revenue Appeal No. 1 of 1992 challenging the said allotment order. Before the Revenue Tribunal, it was, inter alia, submitted on behalf of the petitioner that the petitioner submitted an application in the month of June, 1986 to the Deputy Commissioner, Imphal, for allotment of the said two plots of land in his favour, however, without at all considering the said application, the Deputy Commissioner issued the allotment order in favour of the respondent No. 1 and that such action of the Deputy Commissioner amounts to violation of the equality clause

under Article 14 of the Constitution of India. Another point raised on behalf of the petitioner before the Revenue Tribunal was that the notice dated 11-02-1992 issued by the SDC, Jiribam, to the petitioner asking him to demolish the structures standing on the lands in question obviously revealed that the petitioner was actually in possession of the said lands and as such, the petitioner is entitled to allotment of the lands.

[7] Rejecting the contentions raised on behalf of the petitioner, the Revenue Tribunal dismissed the said appeal by passing the judgment and order dated 23-07-2012, which is impugned herein. The relevant portion of the judgment are reproduced hereunder for ready reference:-

“16. In my considered view, both the points raised by the Ld. Counsel for the appellant have no peculiar aspects requiring serious consideration of any of the points because of the following reasons that:

- 1. The allotment in question was processed pursuant to the application filed by the respondent No. 3 to the Ld. Deputy Commissioner, Imphal, for allotment of the abovementioned lands in his favour. It was not a case that the claim of the appellant also found running parallel with the claim of the respondent No. 3 and such claim was either ignored or overlooked later by the competent authority arbitrarily in order to give preference to the claim of the respondent No. 3.***
- 2. Notice to the appellant dated 11-2-1992 issued by the Ld. S.D.C., Jiribam, came subsequent to the allotment of the land in question to the respondent No. 3. Even in case of assuming that the appellant was in possession of the disputed land at that relevant time either as an encroacher or otherwise, the said notice appears to be a material document or a piece of evidence emerging post facto thereby showing the appellant as a person unlawfully occupying the said land. Therefore, it cannot be the basis for setting aside the impugned order of allotment as violative of section 14(1) of the MLR & LR Act, 1960 and the corresponding allotment of land rules framed in this regard.***

For the above said reasons, the impugned order is hereby made affirmed and the appeal is dismissed. Send the lower Court record back to its office.”

In the said impugned judgment and order, the Revenue Tribunal also gave the following findings:-

“12. However, the report of the Ld. S.D.C., Jiribam, dated 11-4-1991 is not available on record. I have also unfolded the record of the Court below so as to ascertain existence of such report by considering that it will be the most essential element in coming to the decision as to who has actually been in possession of the dispute lands but the same was not found in the said record. Other documents, as I saw all of these, are not helping the case of the petitioner.”

[8] Mr. Th. Henba, learned counsel for the petitioner raised the same points, which were submitted before the Revenue Tribunal. It has also been submitted by the learned counsel that the Deputy Commissioner had knowledge about filing of the application by the petitioner for allotment of the said two plots of land in the month of June, 1986 and the Deputy Commissioner also passed an order dated 05-06-1989 in Revenue Misc. Case No. 30 of 1986 directing the SDC, Jiribam to verify personally as to who was in actual possession of the said lands and also observed that if the petitioner is found occupying the lands, the Government shall be moved for allotment of the lands in favour of the petitioner and that despite such factual position, the Deputy Commissioner issued the allotment order in favour of the respondent No. 1 without considering the case of the petitioner. According to the learned counsel, such action of the Deputy Commissioner violates the Fundamental Right of the petitioner guaranteed by Article 14 of the Constitution of India. The learned counsel also submitted that as there were two applications filed by the respondent No. 1 and the petitioner before the Deputy Commissioner, the Deputy

Commissioner was duty bound to consider the said two applications jointly. The learned counsel also submitted that had the Deputy Commissioner jointly considered the case of the petitioner along with the case of the respondent No. 1 at the time of issuing the allotment order, the petitioner will be in a better position to get the allotment in terms of the provisions under Rule 6 of the Manipur Land Revenue and Land Reforms (Allotment of Land) Rules, 1962. In support of his contention, the petitioner relied on the judgment and order passed by a Single Bench of the Gauhati High Court, Imphal Bench in the case of **"Achom Angou Singh & ors. Vs. State of Manipur & ors."** reported in **2000 (3) GLT 224** (paras. 8, 11 - 14 and 20).

[9] The respondent No. 1 contested the appeal filed by the petitioner before the Revenue Tribunal by filing his written objection and by denying all the averments made by the petitioner in his memorandum of appeal. The stands taken by the respondent No. 1 before the Tribunal are, inter alia, that the petitioner is the owner in possession of the homestead covered by Dag No. 14/190 comprising an area of 5.76 acre and also the co-owner of the agricultural land covered by new Dag No. 14/51 (New) corresponding to old Dag No. 19, both situated at Chingdong Leikai, Jiribam. The respondent No. 1 also stated that the petitioner is a migrant from Bangladesh who took shelter in the house of one Dorjoi, at Refugee Colony, Chingdong Khunou Leikai, Jiribam and he later on claimed physical possession over the new land covered by Dag No. 14/190 and get his name recorded in the Dag Chitha of the said land and he has been residing there by constructing dwelling house of his own. The respondent No. 1 also stated that the petitioner was permitted to use and occupy the northernmost

room of the respondent No. 1's residential house constructed on the lands in question so as to facilitate the petitioner in running his business there as a licensee on payment of rent and that the respondent No. 1 never executed a Kachha Deed of Sale of the lands in favour of the petitioner.

[10] Mr. T. Rajendra, learned senior counsel appearing for the respondent No. 1 submitted that the respondent No. 1 submitted an application to the Deputy Commissioner, Imphal, for allotment of the said two plots of land in his favour and after due consideration, the Deputy Commissioner made a recommendation to the State Government for allotting the said land in favour of the respondent No. 1. It has also been submitted that at the time of sending the said recommendation, there was no other application before the Deputy Commissioner for allotting the said plots of land except the application submitted by the respondent No. 1 and as such, there was no question of considering the application submitted by the petitioner. The learned senior counsel further submitted that after considering the application submitted by the respondent No. 1 and the recommendation made by the Deputy Commissioner, the State Government conveyed its sanction for allotting the said lands in favour of the respondent No. 1 under a letter dated 07-08-1987 and pursuant to the convey letter of the State Government, the Deputy Commissioner, Imphal, issued the allotment order dated 24-08-1991 allotting the said lands in favour of the respondent No. 1 and thereafter, the respondent No. 1 duly paid the premium of the allotted lands and also executed the deed of allotment and as such, he had become the owner of the said lands. The learned senior counsel strenuously submitted that the present petition is devoid of merit and the same is liable to be dismissed.

[11] I have heard the rival submissions of the counsel appearing for the parties at length and also carefully perused the impugned judgment and order passed by the Revenue Tribunal. I have also carefully examined all the materials available on record. The main point raised by the counsel for the petitioner is that as there were two applications, one submitted by the petitioner and another submitted by the respondent No. 1 for allotment of the lands in question before the Deputy Commissioner, the Deputy Commissioner was duty bound to consider both the application jointly and the act of the Deputy Commissioner in allotting the lands in favour of the respondent No. 1 without considering the application submitted by the petitioner violates the Fundamental Right of the petitioner guaranteed by Article 14 of the Constitution of India. On the other hand, the stand of the respondent No. 1 is that he submitted an application to the Deputy Commissioner for allotting the said lands in his favour and that the Deputy Commissioner after due consideration made the recommendation to the State Government for allotting the said lands in favour of the respondent No. 1 and that at the time of making such recommendation, there was no other application except the application submitted by the respondent No. 1 and as such, there is no question of considering both the application submitted by the petitioner as well as by the respondent No. 1.

[12] In the impugned judgment and order, the Revenue Tribunal clearly held that it was not the case of the petitioner that his claim was also found running parallel with the claim of the respondent No. 1 and such claim was either ignored or overlooked later by the authorities arbitrarily in order to give preference to the claim of the respondent No. 1. On the basis of such findings, the Revenue Tribunal refused to interfere with the

impugned allotment order. On careful examination of the record, this court did not find any material warranting interference with the findings of the learned Tribunal.

[13] In the judgment passed by the Gauhati High Court, Imphal Bench in the case of **Achom Angou Singh (Supra)** relied on by the counsel for the petitioner, the Hon'ble Court interfered with the impugned allotment order in the peculiar facts and circumstances of the case and the Hon'ble Court did not laid down any principle of law, having universal application that if different applications are filed before the competent authority for allotment of the same plots of land, all such applications should be considered jointly by the authority irrespective of whether such applications are filed at different point of time. In my considered view, the said judgment relied on by the counsel for the petitioner is not applicable in the present case as the facts and circumstances of the two cases are completely different.

In the result, this court did not find any ground or reason for interfering with the impugned judgment and order passed by the Revenue Tribunal and the impugned allotment order issued by the Deputy Commissioner and accordingly, the present petition is hereby dismissed, however, without any order as to cost.

JUDGE

FR / NFR

Devananda