

GAHC040000022024



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

Case No. : WP(C)/1/2024

Yam Perme

D/o Lt Akut Perme, R/o Saw Mill Area, Pasighat, PO Pasighat, East Siang District,
AP

VERSUS

The State of AP and 3 Ors

represented by the Secretary, Land Management, Govt of AP, Itanagar 2:The
Director of Land Management

Age: 0

Occupation :

3:The Deputy Commissioner cum District Magistrate

Age: 0

Occupation :

4:The District Land Revenue Settlement Officer

Age: 0

Occupation

Advocate for the Petitioner : Nalo Pada

Advocate for the Respondent : GA (AP)

**BEFORE
HONBLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

04.01.2024

Heard Mr. N Pada, learned counsel for the petitioner. Also heard Ms. G. Ete, learned Addl. Sr. Government Advocate for the State.

This writ petition has been filed by the petitioner who claims to be in occupation and possession of a plot of land measuring 300 Sq. Mtrs. at Upper Banskotya, opposite ICICI Bank, Pasighat in East Siang District, Arunachal Pradesh. It is the submission of the learned counsel for the petitioner that the petitioner is in occupation on the said land since 2005 and the petitioner had constructed a Thatched house therein and some of her relatives are staying in the said plot of land. In June 2023, the said thatched house was demolished and the petitioner started construction of an RCC house thereon. However, the construction started by the petitioner was demolished by the police and district administrative officials, allegedly at the behest of the District Magistrate, Pasighat on the ground that the petitioner was in unauthorized occupation of the said plot of land. The construction of the plinth/foundation of the RCC building was demolished by the district officials. The learned counsel for the petitioner further submits that the petitioner has been verbally instructed to demolish his house and vacate the land and remove the belongings failing which the same will be demolished or removed by the authority using machinery. Petitioner was directed to vacate the premises within a period of seven days. It is the submission of the learned counsel for the petitioner that the petitioner has obtained all necessary clearances from the district administration, including No Objection Certificate justifying that the allotment of the said plot of land is the name of the petitioner and that the construction which was proceeded with by

petitioner is not in violation of any of the procedures and Rules and Regulations framed by the State. However, it is submitted by the learned counsel for the petitioner that in utter violation of the law, the construction initiated by the petitioner was demolished and the petitioner has been directed verbally to vacate the said premises. The learned counsel for the petitioner refers to the order dated 29.06.2023 issued by the District Magistrate, East Siang District. The learned counsel for the petitioner submits that this order is a general order prohibiting illegal encroachment of Government land and also prohibition of any construction or any structure in the said Government land and for removal or eviction of the structures within the encroached area within seven days. It is submitted that this order does not reflect the specific area under occupation of the petitioner. Further, no notice was ever served on the petitioner directing her to vacate the premises. Being thus situated, the petitioner filed a representation before the Deputy Commissioner, Pasighat on 28.07.2023. It is the submission of the learned counsel for the petitioner that the said representation has remained pending and no order whatsoever has been passed. However, from reliable sources, the petitioner was informed that the eviction process is likely to be carried out immediately and the petitioner will be evicted from the said plot of land, although, she is in lawful possession in the said land.

The learned Addl. Sr. Government Advocate appearing for the respondents submits that there is no infirmity in the order dated 29.06.2023. This is a general order putting to notice all persons who may or who are in unauthorized occupation of Government land or have made unauthorized constructions on the said Government land. If the petitioner is in lawful possession of the land or has proceeded with construction upon proper clearances issued by the district

authority, then there should be no apprehension for the petitioner that the eviction process will be carried out against the petitioner.

The learned counsels for the parties have been heard. The records available in the writ petition have been carefully perused. Although the prayer in the writ petition is for setting aside and quashing of the impugned order dated 29.06.2023 issued by the District Magistrate, East Siang District, Pasighat, Arunachal Pradesh and further to consider and dispose of the representation dated 28.07.2023, this Court is of the considered view that since the representation filed by the petitioner has been stated to be pending before the competent authority, ends of justice will suffice if a direction is issued to the DC, Pasighat, East Siang District, Arunachal Pradesh to consider and dispose of the representation dated 28.07.2023 stated to have been filed by the petitioner.

That apart, from the impugned order dated 29.06.2023, it is seen that the order was an executive order passed under section 133 CrPC. The said order was stated to have been passed on the basis of a report received by the DC, Pasighat with regard to illegal encroachment of Government land. This order is seen to have been passed ex-parte and is directed to be in force with immediate effect until further order.

Under such circumstances, this Court is of the considered view that while disposing of the representation by a reasoned and speaking order, the District Magistrate will also indicate whether the impugned Order dated 29.06.2023 which was stated to be passed on the basis of reports received with regard to the alleged encroachment of Government land also relates to the plot of land stated to be under possession by the petitioner. If upon due perusal of the reports and the papers available with the DC, Pasighat it is found that there are reports in respect of the petitioner as regards the encroachment of Government

land, necessary notice will be served on the petitioner and the proceedings under Section 133 Cr.P.C in which the impugned order dated 29.06.2023 was passed will be carried to its logical end by passing appropriate orders as per provisions of law.

In view of the directions, the writ petition stands closed. The DC, Pasighat, East Siang District, Arunachal Pradesh will dispose of the representation within a period of 45 days from the date of receipt of certified copy of this order to be furnished by the petitioner. Any such speaking order that is passed, a copy thereof will be furnished to the petitioner. During the process of hearing if any particulars are found necessary from the petitioner, then the petitioner will be accordingly notified and the petitioner thereafter will furnish the same before the DC, Pasighat.

Till such a speaking order is passed, no coercive action shall be taken against the petitioner with regard to eviction or removal of the construction stated to be made. Petitioner will also not proceed further with the construction till the order as directed is passed by the DC, Pasighat.

With the above directions, the writ petition accordingly stands disposed of.

Copy of this order be marked to the Office of the Government Advocate for onward communication.

JUDGE

Comparing Assistant